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New York State Education Department

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# New York State Library

## 91st ANNUAL REPORT

1908

In 3 volumes

VOLUME 3

Supplements 6-8

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TRANSMITTED TO THE LEGISLATURE APRIL 20, 1909

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ALBANY  
UNIVERSITY OF THE STATE OF NEW YORK  
1910

STATE OF NEW YORK  
EDUCATION DEPARTMENT

Regents of the University  
With years when terms expire

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# STATE OF NEW YORK

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No. 69

## IN ASSEMBLY

APRIL 20, 1909

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### 91st ANNUAL REPORT

ON THE

### NEW YORK STATE LIBRARY

VOLUME 3

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*Hon. James W. Wadsworth jr*

*Speaker of the Assembly*

*Assembly Chamber, Albany, N. Y.*

Pursuant to the provisions of chapter 378 of the laws of 1892, the 91st Annual Report of the State Library is herewith submitted to the Legislature.

Very respectfully yours

ST CLAIR MCKELWAY

*Vice Chancellor of the University*

ANDREW S. DRAPER

*Commissioner of Education*

206560





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- 7 Index of legislation, 1908
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# Education Department Bulletin

Published fortnightly by the University of the State of New York

Entered as second-class matter June 24, 1908, at the Post Office at Albany, N. Y.  
under the act of July 16, 1894

No. 439

ALBANY, N. Y.

JANUARY 15, 1909

New York State Library

## Legislation 37

# DIGEST OF GOVERNORS MESSAGES 1908

OCTOBER 1, 1907 to OCTOBER 1, 1908

EDITED BY

Clarence B. Lester, *Legislative Reference Librarian*

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*New York State Education Department*

*New York State Library, November 2, 1908*

*Hon. Andrew S. Draper*

*Commissioner of Education*

DEAR SIR: I have the honor to transmit herewith the seventh annual Digest of Governors Messages, in which are arranged by subjects and briefly digested the explicit recommendations touching desirable legislation, which were made by the governors to the Legislatures of all the states, during the year covered. There is abundance of positive testimony to the high value of this series, and the present number is recommended for publication.

Very respectfully

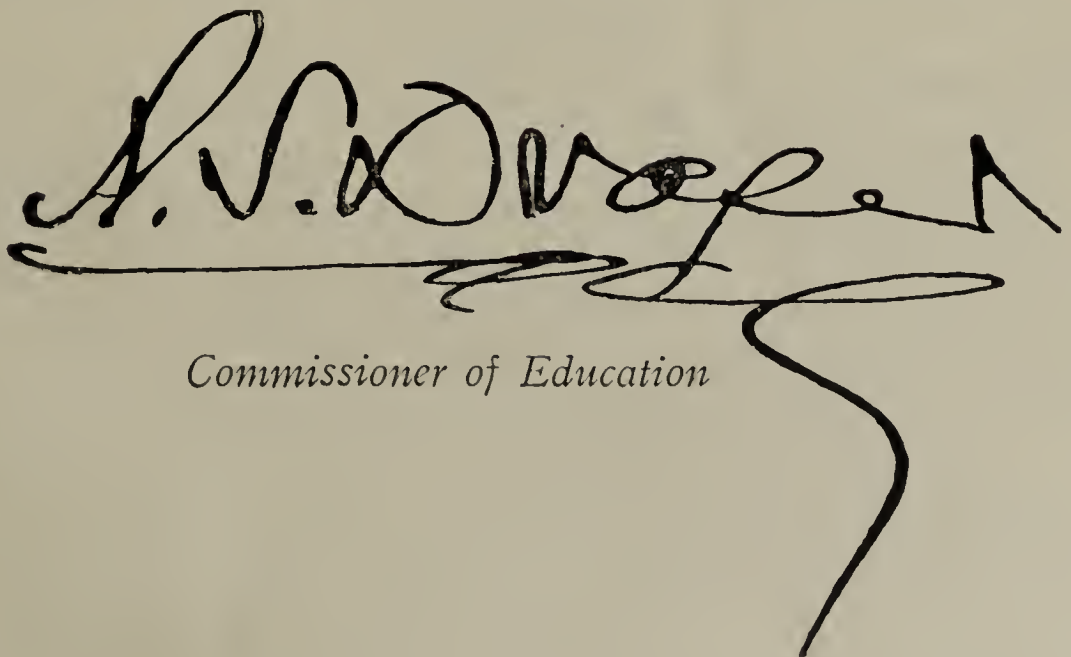
J. I. WYER, JR

*Director*

State of New York  
Education Department

COMMISSIONER'S ROOM

*Approved for publication this 5th day of November 1908*

A large, stylized handwritten signature in dark ink, appearing to read 'A. S. Draper'. The signature is written in a cursive style with a long, sweeping underline that extends to the right and then curves downwards.

*Commissioner of Education*



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EDITED BY

Clarence B. Lester, *Legislative Reference Librarian*

This digest was brought nearly to completion under the direction of Mr Frederick D. Bramhall and a large part of the digesting was done by Mr John T. Fitzpatrick, assistant in the legislative reference section.

#### EXPLANATIONS

The Digest includes all regular messages and all special messages recommending legislation. Veto messages and messages merely transmitting documents are not included. The message of the Governor of Porto Rico is digested in this bulletin, and topics in the President's message related to those with which the states have to deal are also included. As the journals of but few of the states are received in time for use, the executive department of each state is relied upon to furnish lists and copies of the messages.

In two instances copies of messages transmitted during the period covered by this Digest could not be obtained in time for use and of necessity they have been omitted.

No attempt is made to index or digest everything contained in the messages but merely the definite recommendations of the governors

concerning legislation. General remarks, recitals of facts not joined with recommendations, statements bearing on the condition and progress of the state, or a part or department of the state, are omitted. Whenever possible, the gist of important recommendations is given by the quotation of leading sentences or paragraphs.

**Citations.** The citations give state, governor, month, day and year of message, and inclusive paging. Many special messages are received in manuscript form, and to them no page reference can be given. The usual abbreviations of month and state names are used.

**Classification.** The classification of the digest is the same as that of the Index of Legislation, and will continue unchanged from year to year, except for the insertion of new headings when new subjects of legislation arise. The numbers assigned to subject headings will also remain unchanged, so that readers can follow recommendations and laws on any subject by looking under the same marginal number in each bulletin. The numbering corresponds to the consecutive numbering of headings in our card index of legislation 1890 to date. Headings under which there are no recommendations during the year are omitted.

In order to obtain all recommendations on a given subject it is necessary for the reader to refer also to the more inclusive headings and to observe carefully the cross-references. For example, recommendations regarding primary elections [160 or 160(3)] may be involved in a discussion of the general election law [126] and not easily separable therefrom for the purposes of this Digest.



# MESSAGES INCLUDED

## MESSAGES INCLUDED IN THE DIGEST

Period covered, October 1, 1907 to October 1, 1908. In many states when there is a change of governors a message or address is sent or delivered to the Legislature by both the outgoing and incoming governor. In the following, where messages by different governors are listed for the same or very near dates, the first is the message of the outgoing governor and the second that of the incoming.

STATES AND TERRITORIES	GOVERNOR	DATE	PAGES	LEADING SUBJECT OF SPECIAL MESSAGE
Alabama.....	B. B. Comer.....D.	Nov. 7, '07	16	Railroad questions
California.....	J. N. Gillett.....R.	Nov. 19, '07	6	Financial situation
Georgia.....	Hoke Smith.....D.	June 24, '08	35	Convict labor
		Aug. 26, '08	14	Waterways; primary elections
		Oct. 8, '07	11	Deep waterway
Illinois.....	Charles S. Deneen..R.	Nov. 6, '07	4	Deep waterway
		Nov. 26, '07	24	Deep waterway
Indiana.....	J. Frank Hanly.....R.	Sept. 18, '08	....	Night-riders; local option
Iowa.....	Albert B. Cummins...R.	Aug. 31, '08	4	Primary election law
Kansas.....	E. W. Hoch.....R.	Jan. 16, '08	12	Primary elections; bank deposit guaranty
Kentucky.....	A. E. Willson.....R.	Jan. 7, '08	23	
Louisiana.....	Newton C. Blanchard D.	Nov. 11, '07	35	Taxation; state finance
		May 12, '08	84	
	J. Y. Sanders.....D.	May 12, '08	a	
Maryland.....	Edwin Warfield.....D.	Jan. 1, '08	67	
Massachusetts....	Curtis Guild jr.....R.	Jan. 2, '08	49	
		Oct. 7, '07	3	Primary election law
Michigan.....	Fred M. Warner.....R.	Oct. 10, '07	3	Taxation of corporations
		Oct. 18, '07	4	Review of session
Mississippi.....	J. K. Vardaman.....D.	Jan. 8, '08	a	
	E. F. Noel.....D.	Jan. 21, '08		
		Jan. 14, '08	5	Goldfield
Nevada.....	John Sparks.....D.	Jan. 28, '08	....	"
		Jan. 30, '08	....	"
New Jersey....	Edward C. Stokes.....R.	Jan. 14, '08	52	
		Jan. 21, '08	24	
	John Franklin Fort..R.	Feb. 3, '08	....	Primary elections. statutory revision
		Apr. 9, '08	4	Finance
		Jan. 1, '08	31	
		Apr. 9, '08	4	Race track gambling
New York.....	Charles E. Hughes...R.	May 11, '08	....	Public utilities; primary elections
		May 27, '08	....	Court of Claims
		June 8, '08	....	Race track gambling
Ohio.....	Andrew L. Harris.....R.	Jan. 6, '08	47	
Oklahoma.....	C. N. Haskell.....D.	Dec. 2, '07		
Porto Rico.....	Regis H. Post.....R.	Jan. 14, '08	28	
Rhode Island....	James H. Higgins.....D.	Jan. 10, '08	29	
South Carolina...	Martin F. Ansel.....D.	Jan. 14, '08	16	
Virginia.....	Claude A. Swanson....D.	Jan. 8, '08	14	
West Virginia....	William M. O. Dawson.R.	Jan. 28, '08	26	Fiscal and financial questions
		Dec. 3, '07	63	
United States....	Theodore Roosevelt..R.	Jan. 31, '08	27	Injunctions; trusts
		Mar. 25, '08	7	Trusts
		Apr. 27, '08	24	Injunctions; trusts

a Copies not available

Marginal

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- 1204 Rates. Discrimination
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## PRINCIPAL HEADINGS

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- 2633 Electricity. Gas
- 2661 Sewerage. Garbage
- 2700 Roads. Streets

1

## LAW (GENERAL)

2

## Statutes

*See also* 85, Overlegislation

3

## Preparation of statutes

a

W. Va. Dawson. “. . . I again recommend, as I did in my message to the last session, the adoption by the Legislature of the English idea, which has been adopted in large measure by the Congress of the United States and some of our sister states, of raising commissions to investigate and make reports. Sometimes the commission can consist of one man only, and it is never perhaps necessary to have more than three. They would be chosen because of their fitness and ability for the work. They could investigate subjects, because they would have the ability and time to do so. They would learn what other states have done, and thereby aid the Legislature in avoiding mistakes that others have made and enable us to profit by the experience of others. What the members of the Legislature need is information and data. Besides, a proper commission would not only make a report on any given subject, but it would put its conclusions into a well drawn bill for an act by the Legislature. We suffer a great deal from loosely drawn statutes; a subject I discussed in my message to the last session, in which I said it would not be expected that every member of the Legislature would be an expert draftsman; that there are very few, even among lawyers; and yet it is very important indeed that our statutes should be most carefully drawn. The difference between good drafting and loose drafting of laws can be seen by comparing the Constitution of 1863—a well written instrument—with the present Constitution, which is loosely worded; so much so, indeed, that a prominent judge of our Supreme Court once remarked that it was very difficult to tell what the Constitution meant about almost any particular subject. But the principal thing that the Legislature needs is information, and there is no way whereby it can be had so well and so cheaply as by the appointment of competent persons as commissions to gather and report it. As to the need of good and wise legislation, let me mention a few subjects: A comprehensive, practical road law; a railroad, or a public service, or a corporation, commission; the pollution of our streams; the game laws; establishment of juvenile courts, and the care of our dependent children, to save them from becoming confirmed criminals—a most pressing and important matter; revision of our corporation laws, criminal laws, and banking laws; legislation concerning tuberculosis; a uniform law for the incorporation of cities, towns and villages, and their management, so as to avoid the large expenditure of the time of the



- 3 Legislature in considering special acts for that purpose and the want of uniformity in these laws; a thorough revision of our election laws; a primary election law; a local option law—and many other subjects. It costs about \$1500 a day for each day of a legislative session. Take one subject as an example of what could be saved by the work of one competent man—the public service commission. The last Legislature of New York passed such a law; it has been in operation a year; its defects have now transpired in the actual workings of the law. Now, this competent man would not only find out the good points and the bad points of the law of New York but also those of other states, and be enabled to select the good and reject the bad, and to frame an efficient law. He would put his conclusions in the form of a bill, ready for the consideration of the Legislature, and would accompany that bill with a report containing a statement of the facts found out and the reasons for each section of his bill. Moreover, this bill and report could be prepared in advance of the beginning of the session and sent out to the members before they come to the capitol, and thereby give another opportunity for mature consideration, as well as an opportunity for public discussion. Suppose this preliminary work would save the Legislature two days, that would amount to \$3000, but it would probably save \$10,000 worth of time. But the saving of money is not the most important consideration; the most important consideration is good laws—laws efficient for the purpose for which intended.”

Jan. 28, '08, p. 12-13

## 5 Publication of session laws

### 8 *Indexes*

- a Md. Warfield. “The indexing of the laws is claimed to be very imperfect and suggestion is made that a competent man be employed to index them. This question of indexing the laws has attracted the attention of the lawyers throughout the state and I would recommend that the matter be given serious consideration by your honorable body.”

Jan. 1, '08, p.56

## 11 Revision and compilation

- a Md. Warfield. “There is need of a general index of all the state laws such as Baltimore city has recently caused to be made of all the ordinances of the city.”
- b N. J. Stokes. “I recommend that provisions be made for a proper revision of the cumbersome and complicated statutes of our state.”
- c N. J. Fort. “Another subject-matter needing immediate attention is the pending revision of the general statutes of this state authorized by an act approved March 30, 1904, entitled ‘An act providing for a new publication of the public acts of the Legis-



**II** lature of this state.' A commission was appointed in 1904 under this act. It has therefore been in existence about four years. . . The work that has been done need not be entirely useless, but further work under the act of 1904 should be stopped at this point. . . It is a misnomer to call it a revision, because it is not a revision, and is not intended to be. The work so far done by the commission appointed under the act of 1904 is a mere gathering together of the statutes of the state, similar to work published in 1895. I am unable to see how this will answer any useful purpose. What should be done is to follow the course pursued by the state in 1871, when a commission was provided for under pamphlet laws of 1871, page 88, composed of the late Chief Justice Mercer Beasley, Justice David A. Depue, of the Supreme Court, and Mr Cortlandt Parker. They were given powers by that statute to revise, simplify and reduce the body of the statute law. . . If we are to have such an expensive revision of the statutes, it should be done under a commission who will agree to devote their entire time to it; who shall be paid an annual compensation for their service, and who will give us a reduction in the body of the law that will inure to the benefit of the profession and the people of the state. I recommend, therefore, that the act of 1904 be at once repealed. To this end, therefore, I recommend the passage of an act similar to the act found in the pamphlet laws of 1871, page 88, and the appointment of such a commission as therein provided for to revise the general statutes of the state. . ."

Feb. 3, '08

**d** O. Harris. ". . . This commission to revise and consolidate the general statute laws of the state entered upon this work on the first day of January, 1907, and in a brief report filed on December 17th, 1907, states that satisfactory progress has been made, separate portions of the Revised Statutes having been revised and consolidated by each member, which will later be reviewed and combined into a connected and classified code. A number of bills have been prepared for presentation to the General Assembly. These bills relate to the state government, its elective and appointive officers, boards, institutions and departments. As they will change existing laws, they should receive your careful consideration."

Jan. 6, '08, p.19

**e** W. Va. Dawson. Revision of statutes. Jan. 28, '08, p.11-13

13

## Uniform laws

**a** La. Blanchard. "But there is much more to be done and the Louisiana Board of Commissioners for the promotion of uniformity of legislation in the United States should be maintained and supported by continued legislative recognition and encouragement."

May 11, '08, p.49

15

## CONSTITUTIONAL LAW

This and 750, Administrative law, make up what is commonly known as the Political Code.

22 State coat of arms, name, seal, flag, flower,  
song

24

### *Flag*

- a Mass. Guild. “. . . The seal of the commonwealth is established by statute. The flag, its ancient emblems dating back to the foundation of the original colony, exists only as the result of executive orders, dependent alone on the commander-in-chief. I ask you that the flag as it at present exists be preserved forever by statute. . . I further ask you that in future every public armory, arsenal, hospital, every institution of Massachusetts, be ordered to fly the white flag of the commonwealth. . .”

Jan. 2, '08, p.44

30

## Constitutions

32

### Revision

- a W. Va. Dawson. “The entire Constitution should be amended by a new one.”

Jan. 28, '08, p.8

33

### Amendment

- a N. J. Fort. “In the same way I suggest whether the time for submitting an amendment to the people should not be reduced from once in five years to once in three years, and whether the voting upon such amendment should not be changed so that the vote should be had at a general election, where the people take sufficient interest to vote, rather than at a special election, as at present required.”

Jan. 21, '08, p.12

- b N. Y. Hughes. “Some means should be devised to familiarize the voters with proposed constitutional amendments, to the end that more intelligent consideration may be secured. Provision for the delivery of the text of the amendment to the voter at the time of registration in districts where personal registration is necessary, and suitable notification elsewhere, may be advisable.”

Jan. 1, '08, p. 14-15

38

## Officers. Departments

Departments of agriculture are classified under Agriculture, departments of education under Education, etc,

38(1

### *Civil service examination*

- a Mass. Guild. “The Civil Service Commission is steadily increasing its usefulness. Its compensation is ridiculously inadequate.”



38(1

quate, its quarters are insufficient. I urge upon you a more adequate compensation, the enforcement of the daily attendance of at least one member of the commission at the office of the commission during business hours, and the provision of decently adequate quarters for this most important department."

Jan. 2, '08, p.19

- b N. J. Stokes. "A judicious civil service law providing that appointments — municipal, county and State — be based upon efficiency, has previously been recommended for consideration, and the arguments for it so often presented that repetition is unnecessary. The platform of both parties indorsed it in the last campaign, and the fulfilment of the party pledge now becomes a matter of good faith. Twice has a measure of this character passed the Senate. The last measure was prepared by a committee appointed by the Senate. Since the adjournment of the Legislature that committee have given further consideration to the question, and have prepared a bill as the result of their investigation. A civil service measure should not fail to include within its provisions, election officers, assessors and boards of original valuation. The manner in which election returns are received in the Department of State shows the necessity of improved service and the disadvantage of changing the election officers without cause. The necessity for placing assessors and boards of valuation under civil service grows out of the responsible character of their work, and their required protection from selfish interests and political influences if they are properly to perform their duties."

Jan. 14, '08, p.31-32

- c N. J. Fort. "All parties in the last election declared for the enactment of an efficient civil service act. The enlightened public sentiment of our time demands that removals from public positions shall not occur for political reasons. The spoils system is both obsolete and demoralizing, and should be ended. Any fair bill, intended to attain this result in state, county and municipality will meet with my approval."

Jan. 21, '08, p.3

38(6

*Qualifications*

- a La. Blanchard. "The declaration in article 210 of the Constitution that no person shall be eligible to any office, state, judicial, parochial, municipal or ward, who is not a citizen of the state and a duly qualified elector of the state, judicial district, parish, municipality or ward wherein the functions of said office are to be performed, is too broad. The parish superintendency of education has been declared to be an office. Is the school board of a parish to be forbidden to go outside the parish to obtain a suitable man to fill such position? Does not the same reasoning which makes a parish superintendent an officer, make the public school teachers employed in the parish officers? The positions of superintendent of the Deaf and Dumb Institute and the Blind Institute — are they

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not state officers? The incumbents of such places require technical knowledge, or at least training in the work of directing the teaching of the deaf and dumb and the blind. Are the state boards managing such institutions to be prohibited from going outside the state for the best men? And the University and State College professors—are they not filling offices and drawing pay from the public treasury? Must we confine ourselves to people living within the state to put into such positions, or shall we, unhampered by the organic law, have the whole world to draw the best men from?" May 11, '08, p.79-80

- b **Okl.** Haskell. "I recommend the passage of a law providing that no public officer shall be permitted to appoint, or in any way employ at the expense of the public, any member of his family." Dec. 2, '07

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*Salaries. Fees*

- a **La.** Blanchard. Recommends putting state officials on salary basis and covering of fees into treasury. Nov. 11, '07, p.17-19

- b **Mass.** Guild. "On assuming office, I found the various commissions of the commonwealth, paid and unpaid, temporary or permanent, filled almost entirely by representatives of the professional, the commercial, the leisure classes. The farmer and the wage-earner were with rare exception unable to perform such public service. The farmer must hire someone to do his work when he leaves it, the wage-earner who gives a day to public service forfeits his day's earnings. A merchant called to public service may leave his business for a short period without serious financial loss, but wage-earners, farmers and perhaps others can not give a day to public service without encroaching on the fund available for feeding and clothing their families. I ask that the Governor and Council be given authority to reimburse commissioners, within the limits of any future appropriation for any unpaid commission, or when citizens are officially sent to represent the commonwealth at national conventions, to reimburse such delegates to such extent as may be found by the Governor and Council to have been necessary by their giving as commissioners or delegates their services to the commonwealth." Jan. 2, '08, p.17-18

- c **P. R.** Post. "Three important boards have been created by the Legislature, whose duty it is to examine applicants for permission to practise medicine, dentistry and pharmacy. As at present organized these boards are permitted to charge fees to applicants, and the expenses of the examinations are paid from the moneys so collected. Rarely have the amounts so collected been sufficient to defray the expenses of the boards. There should be an appropriation for the compensation and expenses of these boards and the fees collected should be covered into the Insular Treasury as miscellaneous receipts." Jan. 14, '08, p.46

- d **S. C.** Ansel. "Some years ago when the purchasing value of a



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dollar was more than it is at this time, the salaries of the state officers and of the judges of the Supreme and Circuit Courts were reduced. I desire to ask if the time has not come when these salaries should be raised again and your officers paid a salary commensurate with the work they are required to do? I have no hesitancy in saying that the salaries of all should be raised to at least what they formerly were. My accounts will show that it costs me more than \$1000 a year over and above my salary to pay the expenses of living and of providing for such entertainments and receptions as are necessary to the dignity of the position of Governor of this state." Jan. 14, '08, p.14

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*Tenure of office. Discipline.*

- a **La.** Blanchard. "The law seems clear that, in respect of the officials sought to be removed, the Governor has the power of removal. Either he has this power, or he has it not. If he have it, its exercise ought not to be interfered with by the courts. That is to say, his removal of an appointee ought to be immediately effective and the new man take the office, leaving it to the removed official to test the legality of the removal in the courts. If he have it not, make this plain by repeal of the statute which seems to give him the power of removal." May 11, '08, p.58
- b **N. J.** Fort. "The Chief Executive should be armed with some power, both for the enforcement of the law, and for the removal of those in public office, who refuse or neglect to perform their duty. It may be easily imagined that cases may arise where public officials are shown to have been guilty of either misfeasance or malfeasance in office, and who refuse to resign, and it might be that cases would arise where a public official should not be permitted to resign. In either event there should be some power in the Governor, upon formal charges in writing, to cite any statutory state officer, to show cause why he should not be removed, and if, after hearing and full opportunity to make defense, the Governor should be satisfied that the official has been derelict in the performance of his duty, or guilty of a more serious offense, he should then have the power to remove him."

Jan. 21, '08, p.22-23

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**Governor***See also 782, Executive mansion*

- a **R. I.** Higgins. "I renew my recommendation of a year ago, as well as the recommendation of certain of my predecessors, for the enactment of a law restoring to the Executive of the state the power of appointment over the administrative officers of the commonwealth. The present law, which allows the Senate to make appointments after laying the Governor's nominations on the table for three days, is both sinister and anomalous. It exists nowhere else in the American republic. It is designed solely

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to thwart the will of the majority of the people as expressed in their vote for Governor, through a small minority of the people — some 12 or 15% — by their representatives in the Senate.”

Jan. 10, '08, p.14

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*Secretary. Clerks. Employees*

- a **Ky.** Willson. “. . . I hope that it will be agreeable to the General Assembly to authorize the Governor to employ a stenographer at the very earliest possible moment.”

Jan. 7, '08, p.18-19

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*Veto*

- a **R. I.** Higgins. “Both parties also stand pledged by their recent platforms to give to the Executive of the state a substantial veto power. It is reasonable to expect, therefore, that such a reform will be inaugurated at this session. The chief question which may arise is likely to be as to what sort of a veto will be given. I do not believe that the people of the state will be satisfied with anything less than what has been promised, namely, a substantial veto; and such a veto is certainly not one which can be overridden by a mere majority veto, such as the veto provided for in the revised Constitution of 1898, which was rejected by the people. . . I desire particularly to call your attention to the necessity of having the veto apply to every act, bill, resolution, etc., passed upon by the Legislature (except possibly on the question of adjournment), rather than such a measure as would apply to ‘bills’ alone. Under the latter form numerous measures might be introduced as ‘resolutions,’ etc., and thus escape the effect of the veto. I, therefore, recommend most heartily the submission to the people of an amendment to the constitution giving the Governor the power of veto over all measures acted upon by the General Assembly, except that of adjournment, and also providing that such veto can be overridden only by a two thirds vote of all the members elected to each house of the Legislature.”

Jan. 10, '08, p.8-10

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**Attorney general**

- a **Ky.** Willson. “. . . The Attorney General needs one good lawyer assistant to give his whole attention to the fiscal business of the state alone, and a good lawyer retained in this position and knowing the history of the litigation, can attend to this work with greater success and safety to the state’s interest and more efficiently and promptly than the great number of outside lawyers heretofore employed, often, it is claimed, as political favorites and to pay political debts. The appeals to the Court of Appeals in criminal cases would give constant employment all of the time to a good lawyer, and one should be employed for this work. The Attorney General’s services are constantly required in cases in the United States Courts, Circuit Court, Court of Appeals and Supreme



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Court, and he needs an able assistant in this work, and I commend to the General Assembly the consideration of this problem, and that they authorize the appointment and employment by the Attorney General, at a sufficient salary to secure the services of thoroughly competent lawyers, three assistant attorney generals, and a sufficient force of stenographers and clerks, further details of which will be furnished to the General Assembly by the Attorney General." Jan. 7, '08, p.17-18

- b P. R. Post. "In this connection I also recommend that the salaries of the assistant attorney generals be placed at the same figure as that of the fiscals, especially that of the assistant attorney general who acts as the fiscal of the Supreme Court."

Jan. 14, '08, p.34

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## State institutions

*See also* 335, Corrections; 790, Finance; 2140, Charities; 2220, Education

- a O. Harris. "Including three universities and two places for the feeble-minded, there are now 23 state institutions to be maintained. When the three additional institutions now under way are completed the state will have 26 such establishments to support at an annual cost exceeding five million. It might be well to define some limitation to the parental policy of the state. There seems to be such a tendency toward experiment and expansion in state charities that you should consider probable conditions in the future as well as appeals at the present time."

Jan. 6, '08, p.41-42

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## Supervision and administration

- a Ky. Willson. ". . . I commend to the General Assembly the plan of taking such action that the appointments of commissioners, boards, trustees or other bodies governing these [charitable, educational and penal] institutions shall be required by law to be nonpartizan so that no political party shall control any board and that all subordinate appointments and employments shall be wholly free from political or partizan control, and that no employees of any such institution shall be either employed or discharged for political reasons, or employed for any reason but usefulness and merit in their services, or discharged for any but the lack of them. I trust that provision will be made to enable the Governor to visit and personally look after all State Institutions and be paid actual, reasonable, necessary expenses of such visits, and I recommend that the constitutional division between the Legislative and Executive Departments be observed by repealing laws for election by the Legislature of executive officers."

Jan. 7, '08, p. 15-16

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**Officers**

- a N. Y. Hughes. "Without losing the advantages of separate supervision of distinct classes of institutions, it is for the interest of the State to harmonize its financial operations. I recommend that in order to obtain desirable uniformity, and to provide a method by which any necessary changes may be effected with due regard to the entire service of the State, provision shall be made for the classification and fixing of salaries in the charitable institutions, in the hospitals for the insane, and in the prisons by a board of control in which the respective classes of institutions, through their supervisory boards and officers, shall have suitable representation." Jan. 1, '08, p.20

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**Public documents. Printing**

- a La. Blanchard. "The cost of the state's public printing is too great. Not only is the appropriation made for such purpose always exhausted, but large deficiency bills are brought in at every session of the Legislature. The matter should have your careful consideration." May 11, '08, p.82
- b O. Harris. "The fiscal year of this state ends on November 15th, a few weeks previous to the convening of the General Assembly. Section 62 provides that the Governor shall lay before the General Assembly all reports of state institutions, boards and departments in printed form at the same time he delivers his annual message. The Supervisor of Public Printing states that these reports will not be in printed form during the time you are likely to be in session. There should be such action as will secure these publications before they are a year old, or stop the enormous expenditures for 'back numbers.' In order that the General Assembly may have the benefit of these reports, I recommend that the Revised Statutes be so amended that the fiscal year for the state institutions and such state departments, as the General Assembly may prescribe, shall end on August 15th. Some states have biennial instead of annual reports. With biennial sessions of the General Assembly, it might be advantageous to have these documents cover such a period, and it would save almost one half of a present expenditure of \$120,000 per year. Although the Governor has the manuscript of these reports before the same is taken to the printer, he has not sufficient time after November 20th to consider them in that form before the preparation of his message. I also recommend that the state printer, having the contract for this branch of the public printing, be held under a forfeiture to have at least 200 copies of each of all such reports printed on or before the first Monday in January; and that the same for use in the General Assembly have such binding, as may be prescribed by the commissioners of public printing, if it should be found impossible to complete the full binding of 200 copies of each by



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the first Monday in January. When there is only one session of the General Assembly, it is held a few weeks after the members are elected, and they do not get the printed reports of the preceding year until long after their actual service, unless there should be an extraordinary session. These reports are intended for members of the General Assembly more than for others, and should be on their desks during the session, rather than in boxes at their homes long afterwards." Jan. 6, '08, p.7-8

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*State printing boards and officers*

- a N. J. Fort. "The state publishes a mass of official reports, at a large expense, each year. These reports, if reduced in bulk, and properly edited and indexed, would be much more valuable than they are now. An examination of our published reports, such as I have lately made, shows that much is printed that should not be; and that there is no accurate summary nor index of value of their contents. A book without a good index is of little use. The cost of these publications would be cut down many thousand dollars per year if they were intelligently edited, with a view to printing only such matter as would add to the useful knowledge of the public. I recommend that a law be enacted creating a 'Department of Public Reports,' consisting of a single commissioner, who shall control all state publications subject to the approval of the Governor. The cost of public printing (exclusive of advertising), in 1907, was over \$50,000, and by any reasonable revision of the state reports, this expense could be reduced by many times the expense of the salary of the commissioner. The information such a commissioner would possess would make him a most valuable public official." Jan. 21, '08, p.7-8

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**Public printing establishment**

- a Okl. Haskell. "In order to protect the state and all its counties and other subdivisions from extravagant demands and prices, I believe, in the absence of an opportunity to make safe and fair contract for the benefit of the whole state and its various subdivisions, that it will be best for the state to erect, maintain and operate a state printing plant, which shall supply the blank books, school books, court reports, legislative printing, reports, laws, and other necessary public work, and to further advise us all upon this subject, I recommend that the Legislature carefully look into the question, and pass such laws as shall insure economic use of such books and supplies, and their production to the state and its counties and other subdivisions at a reasonable price." Dec. 2, '07

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## Legislature

*See also 2, Statutes*

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### Election. Number. Apportionment. Vacancies

- a N. J. Fort. "Another suggested amendment to the Constitution relates to the creation of Assembly districts. In the more populous counties, there seems to be a general demand in favor of Assembly districts, and, upon principle, it seems to me to be right. The representative in the House of Assembly should stand for his immediate constituency, and the best way to secure that desirable result is by the local subdivision of the county into districts. In connection with this proposition, it seems to me to be worthy of consideration whether it would not be wise to submit to the people of the state, at the same time, an amendment to increase the possible limit of Assemblymen which is now fixed by the Constitution at 60, to not exceeding 100 members. At the time our Constitution was adopted in 1844, our population was less than 380,000. At the next census it will undoubtedly exceed two and a half million, and if it be left to the Legislature to fix the number of Assemblymen at not exceeding 100, they can so adjust them as to give proper local representation. This thought is but suggested to the Legislature, rather than recommended." Jan. 21, '08, p.12

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### *Apportionment: general laws*

- a Ky. Willson. Urges passage of fair act redistricting state into representative districts in place of act of 1906, since declared unconstitutional. Jan. 7, '08, p.12-14
- b Miss. Noel. ". . . The constitutional barriers which cause unequal legislative representation are not now needed, and should be removed." Jan. 21, '08
- c R. I. Higgins. "Both of the leading parties stand pledged to an increased representation for the cities and larger towns in the General Assembly. This has been, perhaps, the most important reform urged for years in the Legislature of this state. No commonwealth in the Union has today so unrepresentative and unfair a system of legislative apportionment. Our government, both state and national, was founded upon the principle that to the people as a whole belonged the right to govern. Rhode Island long ago adopted the principle that to 10% of the people belonged the right to govern; and that in order to govern, one must live in certain sections of the state. For example, to quote an oft used illustration: Two towns possessing respectively, in 1905, a population of 474 and 789 have just as much representation in the state Senate as two cities having at that time a population of 198,635 and 43,381. About 12% of the people of the entire state have a complete majority in our Senate, and can defeat or approve such



legislation as they see fit, irrespective of the wishes or demands of the other 88%. This, indeed, would be little short of a burlesque on popular government were it not so serious a matter and if its evil consequences were not so lamentably apparent. But while such a system is a complete perversion of the idea of the rule of the people, the disparity along the line of taxation is even greater. The two cities above mentioned pay in direct taxes for the support of the state government, \$405,000 and \$81,042, respectively; while the two towns above referred to pay, respectively, the sums of \$630 and \$1029. To declare that a system which permits of a town paying \$630 in taxes to have as much representation in the senate as the city which pays \$405,000 is taxation without representation, would be, of course, to repeat what has become a well worn truism. This condition of affairs can not be remedied too soon if our state is to maintain even the appearance of a representative or a republican form of government. It is encouraging, therefore, to note the prospect for relief from these conditions. The people, however, will not be satisfied with anything short of bona fide relief. If reform is to be attempted, it ought to come primarily through a reorganization of the Senate, because it is in that body that the most glaring disproportion exists. The House is far from being representative, either of the population or the wealth of the state, but it is not to be compared to the Senate in that respect. Therefore, any measure providing for a reorganization of the House, but which leaves the Senate as it is, will justly be treated by the people with suspicion and disapproval. . . . I believe also that the towns themselves have enough of the spirit of justice to yield to a fair proposition. They have suffered as much as any communities in the state under the present system. The population and wealth of many of the towns for years have been continually on the decrease, until today some of them are much less populous and wealthy than they were 100 years ago. It can not therefore be urged that this system has been productive of material welfare to the towns themselves. It has, furthermore, been the cause of more political degradation than any other one element in the state. With such disproportionate power centered in the hands of a few voters, the inclination to buy votes and to resort to other sinister methods of control has been irresistible. A change in the system, therefore, which would approximate genuine representative government, would necessarily reduce the practice of wholesale bribery which has for so many years disgraced certain sections of our state. The whole commonwealth and its people, a very great majority of whom thoroughly abhor and disapprove this practice, ought not to be held up any longer in contempt and disgrace before other states through the practices of a small minority of its people. I, therefore, recommend most heartily the adoption of a constitutional amendment which will give to all the cities and

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towns in the state representation in both House and Senate based approximately on the population of such towns and cities."

Jan. 10, '08, p. 5-8

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*United States representatives*

- a **Ky.** Willson. "I commend also to your consideration at your earliest convenience, after the work is done, the redistricting of the state in congressional and judicial districts, which shall give equal representation and voting power to every citizen in conformity with the plain requirement of the Constitution."

Jan. 7, '08, p.16

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*United States senators*

- a **Ill.** Deneen. In connection with the enactment of a direct primary law "I further recommend to you that an advisory vote be provided for in relation to the election of United States senators."

Oct. 8, '07, p.7

- b **Ia.** Cummins. ". . . I recommend the adoption of an amendment to the primary election law that will authorize the voters of a party in which the choice for senator made at the primary election has been rendered ineffective through death or withdrawal, to again express their preferences as between candidates for the office, at the November election; . . . I recommend that the additional expression be taken at the November election in order to avoid the expense of an independent primary, for it is manifest that if the vote be taken as suggested, there will be no substantial outlay in addition to that which is necessarily involved in the general election. . . The proposed amendment should confine the privilege of voting for senator, under it, to the members of the party which has been or may be deprived of its choice. In the particular instance now under consideration the vacancy exists in the republican party and none but the republicans should be permitted to fill it. . . At the present time a vacancy in the republican choice is to be filled; but at some future time the vacancy may be in the choice of another political party. The amendment will necessarily be as general in its terms and as comprehensive in its application as the statute which it amends. Therefore it must be right for all parties and for the future as well as the present. The test for the privilege to be exercised must be fair and just for peace and quiet as well as for stress and storm."

Aug. 31, '08, S. J. p. 11

- c **Kan.** Hoch. "I recommend the enactment of a primary election law. . . to include also an expression of popular choice for United States senator."

Jan. 16, '08, p.3

- d **La.** Blanchard. Recommends application to Congress to call convention for the purpose of proposing amendments to the Constitution of the United States providing for election of United States senators by direct vote.

Nov. 11, '07, p.27-28



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e Md. Warfield. "Both political parties . . . promised . . . a primary election law . . . including [candidates] for United States senators." Jan. 1, '08, p.23

f Mich. Warner. "The desire of the people of Michigan to directly participate in the nomination of candidates for United States senators is, I believe, generally conceded. The method of gratifying this overwhelming wish of your constituents is simple and thoroughly understood by all of you. By making provision in the primary law so as to permit the people of the state to nominate party candidates for United States senator by direct vote you will perform an act that will have the unqualified approval of the people of the state, regardless of political affiliations."

Oct. 7, '07, H. J. p.11-12

g N. J. Fort. Chapter 281, laws 1907, relating to popular choice for United States senators "is a most unsatisfactory law."

Feb. 3, '08

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### Overlegislation

a N. J. Stokes. ". . . Continuous legislation has resulted in such a mass of enactments that it is much more difficult to find out what the law is than to enact one drawn to accomplish a special purpose. Consequently, a law is passed rather than searched for among existing statutes. It is impossible for the Legislature to properly digest the mass of legislation yearly enacted, and laws are passed without sufficient examination or a full discussion of their merits and effects. Reform in this particular is still unaccomplished. It would not be an unwise provision if no bill were permitted to pass the Legislature until the members thereof knew its contents, provisions and effect. This would materially reduce the amount of legislation." Jan. 14, '08, p.31

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### Members of Legislature

a R. I. Higgins. ". . . I recommend for your consideration . . . the enactment of laws rendering a member of the Legislature ineligible for election to any office during the term of such member, the incumbent whereof is appointed by the Governor or elected by the Legislature or by either House or Senate. . ."

Jan. 10, '08, p.24

b W. Va. Dawson. Recommends annual salaries for members of the Legislature.

Jan. 28, '08, p.9

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### Internal organization

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#### Lobbying

a Ga. Smith. ". . . I earnestly hope that you may be able to perfect a bill satisfactory to both houses which will limit the work of men employed to serve interests in connection with legislative matters. Men so employed should be compelled to make their employment public, and their action should be limited to appearance

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at hearings of committees and subcommittees of the Legislature officially appointed for such purpose." June 24, '08, p.13-14

b **La.** Blanchard. "We need also antilobby laws."

May 11, '08, p.61

c **Mich.** Warner. "The lobby evil is no less dire and corrupting than it was when I directed your attention to it at the commencement of your regular session. . . To legitimate services rendered in a legitimate way, no reasonable objection can be made. But all appearances for or against measures before the Legislature should be made publicly and before the proper committee only. There should be no lobbying that will not stand the light of the fullest publicity. . . I emphatically renew the recommendation previously made by me that you enact a law that will free this state from the corrupting influence of the professional lobbyist and provide for the registration and regulation of all persons who appear before the Legislature or committees thereof to urge either the passage or defeat of pending measures. The law should not apply to duly accredited counsel or representatives of municipalities, public boards and public institutions."

Oct. 7, '07, H. J. p.12-13

d **N. J.** Stokes. Abolition of the lobby. Jan. 14, '08, p.41-42

e **N. J.** Fort. "If I may be pardoned for the suggestion, may I ask that you adopt a rule in both your houses, if you have not already done so, excluding every one, except state officers, from the floor of either chamber at all times, and see that it is strictly enforced by your officers, until a statute to cover the case, of the most severe character, shall be adopted making it a misdemeanor for any one to violate it. The professional lobbyist has no place, in morals, about a Legislature, and he should have none in law."

Jan. 21, '08, p.24

f **Okl.** Haskell. "Believing that all classes of people who feel that the interest of themselves or their employers entitles them to be heard before the legislative bodies of the state, but that such hearing should be open to the public, I earnestly recommend the adoption of such rules and the passage of such laws as will limit the privilege of the lobbyist to open oral arguments or public print, and that a suitable penalty be provided punishing any offender against the rules or laws that you may provide or enact; that this apply not only to lobbying before your honorable body, but before municipal legislative departments."

Dec. 2, '07

g **R. I.** Higgins. "I renew the recommendation made a year ago concerning the regulation of lobbying. I have no objection whatever to legitimate lobbying for reputable and public purposes. It ought to be regulated, however, as is done in some other states, for instance in Massachusetts, where any person appearing as a lobbyist must give the names of the persons by whom he is employed, as well as the purposes, duration, etc., of his employment."

Jan. 10, '08, p.20-21



## LEGISLATURE

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### Officers and employees

- a Md. Warfield. Recommends reduction of number of legislative employees. Jan. 1, '08, p.3-12
- b Md. Warfield. "The custom of increasing the compensation and voting gratuities and giving the people's money away without receiving adequate service in return is a species of graft that can not be justified, and is demoralizing and destructive of official morality. In the past, friends of the legislators, employees in the several departments of the state government and hangers-on around the legislative halls have shared in the distribution of the people's money as gratuities." Jan. 1, '08, p.13
- c W. Va. Dawson. "Another very important matter which, it is hoped, you will pass upon in a satisfactory manner, is that of limiting the number of officers, clerks and other employees of the Legislature and fixing their compensation. . . Jan. 28, '08, p.7

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### Legislative procedure

- a Md. Warfield. "I wish to call your attention to the practice of postponing final action on important measures to the last days of the session. This always results in hasty and bad legislation." Jan. 1, '08, p.48

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### Bills

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#### *Enrolling. Engrossing. Printing*

- a Md. Warfield. ". . . I recommended at the last session an amendment to the Constitution authorizing the engrossment of bills by printing. The adoption of such methods would save to the state of Maryland more than \$30,000 at each session of the Legislature. The cost of the extra printing would not exceed \$5000. . . You should give due consideration to the matter at this session. The cost of engrossment of bills under the present plan could be greatly reduced if the two houses would so amend their rules as to allow bills to be introduced in typewritten form and passed in such form to their engrossment for a third reading and final passage. The bill could then be properly engrossed by handwriting, thus saving time and extra copying. This suggestion is worthy of your consideration." Jan. 1, '08, p.12-13

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### Sessions

- a W. Va. Dawson. "The legislative sessions are entirely too short and the compensation of the members is inadequate. The limit should be largely increased and the members paid an annual salary with no other emoluments whatever except mileage for attending the sessions." Jan. 28, '08, p.9

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## Direct legislation

- a **Okl.** Haskell. "Referring to the provision of the Constitution on the subject of initiative and referendum, I earnestly request that the Legislature immediately make suitable provision for carrying the same into effect." Dec. 2, '07

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## Elections. Political parties

*See also* for term of office, vacancies, etc. the various officers under state and local government

- a **Ky.** Willson. "I submit to the General Assembly a draft of a new election law, prepared under the auspices of a committee of the Louisville Bar Association, for their information. I have not been able to examine it with the painstaking care which the General Assembly will give to it, but it is the work of honorable and unselfish men, who have given a great deal of care to making what they believe is an absolutely fair law. This will not, however, exclude the probability that the experience of members of the General Assembly with elections, may find provisions which may need change. In the event that this General Assembly shall not have time to complete a draft of an election law, I urge upon your most patient and careful attention two propositions, first, to repeal so much of the law as requires registration certificates, or registration in cities of the fifth and sixth classes and so much of the present law as prevents placing the name of any candidate under the design or upon the ticket of more than one party, which seems better calculated to serve party interests than general interests, and this is especially true as to judicial officers. . ."

Jan. 7, '08, p.14-15

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## Suffrage: qualifications

- a **Md.** Warfield. "I am satisfied that there is a demand upon the part of a majority of the citizens of this state for an amendment to the Constitution fixing a higher standard of qualification for the exercise of the elective franchise,—a demand for the elimination of the ignorant, unreflecting, thriftless, negro voter. In this demand I concur. . ."

Whatever amendment is proposed by this Legislature should protect the citizen who voted in 1869 or prior thereto, and his descendants, because that was a sacred privilege then enjoyed by the white citizens of this state. The foreign-born citizen who has become naturalized after complying with the requirements of the laws of the United States, and of this state, should be protected in his rights, because he became a citizen upon the express guaranty that if he met certain requirements, he would be entitled to citizenship. The amendment should also contain, as an alternative



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right, an educational qualification defined in definite, precise terms, such as ability to make out the application for registration in writing, in English, and to write from dictation a section of the Declaration of Independence, the Constitution of the United States or the Constitution of the state of Maryland not exceeding in length 50 words. Another class of persons should be given the right of suffrage, those who have a material interest in the welfare of the commonwealth, who pay taxes, and thus aid in defraying the expenses of the state and local governments, and whose thrift means so much to the prosperity of the state. . . .”

Jan. 1, '08, p.25-26

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### Property

- a R. I. Higgins. “Another constitutional reform which I most heartily recommend, and which has been suggested on previous occasions, is the abolition of the property qualification. No state in America has such qualification, except Rhode Island. Again, if the registry voter in Rhode Island has sufficient intelligence to vote for presidential electors, Governor and general officers of the state, members of the State Legislature, and all other officials except members of a city council, I can not see why he is not capable of voting for the latter. The property qualification is unsound in principle and unsuccessful in practice. It gives rise to an un-American discrimination between classes of citizens, and places a premium upon wealth rather than upon manhood and intelligence. If, however, there were originally any justification for such a qualification on the ground that taxes would be more providently expended if only those who paid them directly had a voice in such expenditure, such arguments have been completely shattered by the actual workings of this law. . . . Such a condition of affairs is not only unjust, but it is ridiculous. I, therefore, commend to your consideration a constitutional amendment providing for the abolition of this unjust and un-American qualification. If the Legislature can not see its way clear to take this course, then, in the name of common fairness and common American equality before the law, I recommend for your enactment a measure which will prevent the possibility of such wholesale jugglery and manipulation as have taken place in Pawtucket for years, and such as is possible in Providence and elsewhere.”

Jan. 10, '08, p.10-14

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### Corrupt practices. Election offenses

- a Mass. Guild. “The demands of churches and of charitable and benevolent associations for money from public officials or candidates for public office are little less to be condemned than the demands for money from men who sell their political convictions for hire. I recommend that the solicitation of funds from officials and candidates, whether directly for political service or for spaces

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in programs, for ball tickets, for fairs or bazaars, or for any purpose whatever, be prohibited. It is time that a halt was called on practices which, even on the part of well intentioned people, handicap a man of modest means from becoming a candidate or for holding public office in this commonwealth. The same principle imperatively demands some restriction on the hiring of men to work at the polls. It is a known fact that this so called legitimate expenditure, now subject to no limitation, has been used as a cover for direct bribery. The purposes for which men may be hired and the number should be clearly limited by law, and the bribing of voters under the pretense of hiring workers should be made a penal offense." Jan. 2, '08, p.20-21

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### Corrupt practices acts

All recommendations that candidates or committees be required to file statements of election expenses, and recommendations concerning miscellaneous election offenses are included under this head.

- a **Ga.** Smith. "I recommend also that our laws be strengthened to check the use of money in political contests, even by candidates and their intimate friends. This can probably be best accomplished by naming the specific uses for which money will be permitted. Let me also suggest that the judges of the superior courts should be required to specially charge grand juries with the duty of investigation to the end that parties violating laws for the preservation of the purity of the ballot box may be indicted and brought to punishment . . . ." June 24, '08, p.13
- b **Ky.** Willson. "I commend to the General Assembly the enactment of measures requiring complete publicity of all expenditures of money for political campaigns by parties, committees and candidates, and requiring every candidate and campaign manager to render a public sworn and true account of all sums of money collected for political purposes and the purpose for which the same are expended, with appropriate penalties for failure or for false statements." Jan. 7, '08, p.16
- c **Md.** Warfield. "Both political parties of this state promised in their platforms the passage of a stringent corrupt practices act. . . You should not fail to provide in the corrupt practices act for publicity of campaign expenditures, and in my opinion, you should take the English corrupt practices act as the basis of the law." Jan. 1, '08, p.23
- d **Miss.** Noel. ". . . Limitation and publicity of election expenditures should be legally required, so that contests may turn on men, not on money, worth, not wealth." Jan. 21, '08
- e **R. I.** Higgins. "Of equal advantage would be a law compelling a written statement under oath of receipts and expenditures made by political committees, nominees, etc., also provisions prohibiting under serious penalty corporate contributions to political parties, or for the purpose of influencing legislation, as well as



provisions prohibiting political contributions directly or indirectly from state or municipal laborers and employees."

Jan. 10, '08, p.21

- f **U. S. Roosevelt.** "It is well to provide that corporations shall not contribute to presidential or national campaigns, and furthermore to provide for the publication of both contributions and expenditures. There is, however, always danger in laws of this kind, which from their very nature are difficult of enforcement; the danger being lest they be obeyed only by the honest, and disobeyed by the unscrupulous, so as to act only as a penalty upon honest men. Moreover, no such law would hamper an unscrupulous man of unlimited means from buying his own way into office. There is a very radical measure which would, I believe, work a substantial improvement in our system of conducting a campaign, although I am well aware that it will take some time for people so to familiarize themselves with such a proposal as to be willing to consider its adoption. The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties, an appropriation ample enough to meet the necessity for thorough organization and machinery, which requires a large expenditure of money. Then the stipulation should be made that no party receiving campaign funds from the Treasury should accept more than a fixed amount from any individual subscriber or donor; and the necessary publicity for receipts and expenditures could without difficulty be provided." Dec. 3, '07; p.41

- g **W. Va. Dawson.** ". . . I can not think it necessary to urge upon you the importance of a corrupt practices act, as it is called, except to say that the chief fault of such acts is that they are not sufficiently comprehensive." Jan. 28, '08, p.8

### Corporation funds

- a **Ga. Smith.** "Contributions of money by great corporations or by special interests such as liquor dealers associations, to political contests, is debauching and utterly destructive of the best results which should be obtained from popular government. I suggest the passage of legislation which will make such contributions illegal and punish severely those guilty of making them." June 24, '08, p.12-13
- b **La. Blanchard.** "Another law we should have in Louisiana, and which, too, is recommended by the commissioners, is one prohibiting life insurance companies from making any kind of political contribution." May 11, '08, p.47
- c **Mass. Guild.** "The General Court last year forbade all corporations under supervision or regulation by the commonwealth to contribute to campaign funds. I rejoice that such action was taken. I ask you to join me in extending that prohibition to all corporations, regardless of their character, not alone that we may

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secure a greater measure of purity in public elections, but that we may secure higher business ideals in the management of corporations. An individual has a right to give away his own money, firms have a right to give away their own money, for any legitimate use they may desire. The officers of a corporation, however, have no right for any reason to give away money which is not theirs for purposes other than those connected with the business of the corporation. Still less have they the right to make expenditures which do not appear in the corporation accounts, and of which the stockholders are ignorant." Jan. 2, '08, p.19-20

d Okl. Haskell. "I recommend that proper laws be enacted making it a criminal offense for a corporation of any kind to contribute money, or other thing of value, directly or indirectly, to influence any nomination of a candidate for public office, or the election of any public officer, and that substantial penalty be imposed for violation of such law." Dec. 2, '07

e R. I. Higgins. Advocates "provisions prohibiting under serious penalty corporate contributions to political parties." Jan. 10, '08, p.21

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#### Payment of tax or fee

a Ga. Smith. "I urge the passage of legislation which will make it a crime to pay the taxes or to furnish money to pay the taxes of men that they may register, and I urge furthermore, that the time of registration be closed sufficiently long before the time of an election to lessen the danger from the use of money in the way that I have described and to make it possible to thoroughly purge the registration lists before the date of the primary."

Jan. 10, '08, p. 21

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#### Nominations. Parties

a Ga. Smith. "The Democratic primary is with us equivalent to an election. We wisely settle our differences in it and accept it as absolutely final. This being true, the public is entitled to know long in advance just when primaries are to take place. Their dates and plans should not be left to the caprice of party machinery. I urge that the Legislature fix by statute the time for the primary at which the Governor, statehouse officers, judges, railroad commissioners and the legislators shall be named. Few will deny that an election should be held at as late a day as practicable before the officer elected is to assume the responsibilities which the people place upon him. It is also important that an officer offering for reelection should have had the opportunity to complete as nearly as possible the duties already resting upon him that his record in office may furnish a basis for his election or rejection by the voters. To this end I suggest that the primary elections for Governor, statehouse officers, judges, railroad commissioners and members of the Legislature be fixed for some day



sufficiently late after the adjournment of the Legislature to give an opportunity for the members of the Legislature, as well as the others, to present their claims to the people subsequent to the second session of the General Assembly. It may be necessary also that the time for the general election be postponed and that the time for closing the second session of the Legislature be moved backward." June 24, '08, p.10-11

- b **Mich. Warner.** "In this connection I desire to call your attention to the necessity of providing more stringent regulations governing the holding of county and district conventions in localities where the direct nomination system does not prevail. No convention should be called to elect delegates to a national, state or district convention that has not been called. The other course is sometimes taken from good motives, no doubt, but they are seldom made public. Cleaner politics and good government will be promoted by making such practices against the letter as well as the spirit of the law. Experience has conclusively demonstrated that there should be but one primary day, and upon that day all nominations under the provisions of this law should be made. This change would result in a large saving to the people. I would be pleased to see needed amendments made to existing special primary election laws affecting specified localities in order that all laws on this subject may be made as uniform and harmonious as possible. The extension of the primary election system to meet any demand of the people would have my approval."

Oct. 7, '07, H. J. p.11

- c **N. J. Fort.** "The laws relating to elections and primaries, adopted prior to and at the session of 1907, are in a very confused state and should be thoroughly revised. Chapters 179 and 277 of the laws of 1907, relating to primaries, are in conflict on many points, and chapter 281 of the same year, relating to the question of a popular expression as to the choice of the people for United States senators, is a most unsatisfactory law. If there is to be any expression as to the selection of senators as a guide for the action of the representatives of the people in the Legislature, it should be clearly provided for in some simple and effective way. Primary recount is necessary. The extension of the primary laws to the election of delegates to conventions for the selection of delegates to the national conventions of the great political parties should be made. For myself, I prefer a direct vote for delegates to a national convention, with the right of each voter in each party to express his choice for president and vice president of the republic on his ballot. . . . The method of holding such primaries should not be left to political committees, but should be carefully guarded by law and conducted by the election officers. No other primaries should be legal or permissible, and the law in this respect should be extended to the selection of representatives in all local political committees."

Feb. 3, '08

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**N. Y.** Hughes. "To prevent frauds provision should be made for an official primary ballot. But the form of the ballot should put all the enrolled voters upon an even footing, without any advantage to those who are in power for the time being, and should encourage discrimination in the selection of party representatives." Jan. 1, '08, p.15

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### Direct nominations

**a Ill.** Deneen. "One of the most important of the matters to which I desire to call the attention of your honorable body relates to the recent decision of the Supreme Court pronouncing unconstitutional the primary election law enacted at the last, extraordinary, session of the General Assembly. . . I, therefore, urge that in the framing of a new law the General Assembly keep in view the necessity of avoiding the imposition of even the slightest limitation upon the power of the people freely and directly to express their views, and to have their views control, in the nomination of candidates. And to that end I recommend for your consideration the enactment of a direct primary law, with an emergency clause." Oct. 8, '07, p.4-7

**b Kan.** Hoch. "I recommend the enactment of a primary election law state-wide in its character, to include every state, district and county officer to be voted for in this state this year, and to include also an expression of popular choice for United State Senator, and to be operative in the selection of this year's candidates by every political party. . . The convention system disfranchises the citizen. It is not representative government at all, because in the nature of things the delegate can seldom represent any one constituent upon more than one candidacy. Let no factional or personal consideration, no pride of authorship, no past differences, have influence in this matter. The people are demanding this action at your hands." Jan. 16, '08, p.3-4

**c La.** Blanchard. Amendment of direct primary law so as to provide for investigation and correction of frauds by party committees and courts. May 11, '08, p.27-31

**d Md.** Warfield. "Both political parties of this state promised in their platforms the passage of a . . . primary election law for the direct nomination of party candidates. . . The primary elections should be held by both parties on the same day, not earlier than 60 days before the general election, and the expenses of said primary elections should be borne by the city and counties, respectively. The cost of the recent senatorial primaries demonstrates that such expenses ought not to be large." Jan. 1, '08, p.23-24

**e Mich.** Warner. "The fact is that no argument worthy of the name has been or will be advanced in support of the retention of the 40% clause in the present primary law of Michigan. Beneath whatever may or can be said in support of this clause lies the desire of its advocates to preserve, if possible, the old delegate



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convention system and thus keep from the people the right to make these nominations themselves. This phase of the matter is so real that it need simply be mentioned. Even those who, in public, most strenuously advocate the retention of the percentage clause frankly admit in private the truth of this statement. It is hardly to be presumed that a delegate convention will come any nearer expressing the will of the people than will the people themselves by direct vote. The percentage provision of the primary law now on the statute books of this state should be repealed.

I am firmly of the opinion, too, that the members of the different political parties should be afforded the opportunity to elect by direct vote the delegates to the national conventions. Delegates to conventions act in a purely representative capacity, and should be chosen by the most direct method. I know of no reason why the county and state conventions should come between the rank and file of the party and the national convention. The first and second choice of candidates for delegates could be indicated on the ballot. In any event, it is altogether probable that there would be candidates for delegates whose presidential choice would be well known and in accord with well defined public sentiment. This primary election could be arranged for with but little expense, as the delegates could be elected on the first Monday in April, an election day throughout the state. A general law of this kind for electing these delegates would prevent the holding of snap caucuses and conventions long before the call for the national convention is issued and enable those who are expected to elect the nominees to have more to do with their nomination."

Oct. 7, '07, H. J. p.11

f N. Y. Hughes. "There should be unrestricted opportunity for the expression of the wishes of the members of the party in the selection of candidates for office. Only in this way can healthy party activity be secured. And in order that the enrolled voters should be encouraged to take part in party proceedings, and that the will of the party in the choice of candidates may be expressed, and not defeated by a perversion of party machinery, I am in favor of direct nominations. I renew the recommendation made at the last session that provision should be made for such nominations, at the primary, of candidates for office. In my judgment it is advisable that the provision should take the permissive form; that is, that a method of direct nominations shall be defined which party organizations may adopt by suitable rule. I favor this course because I believe that in this manner legislation can be had which will secure a fair trial of the plan and pave the way for its general adoption in the light of persuasive experience."

Jan. 1, '08, p.15

g O. Harris. "The enactment of a primary election law has been repeatedly recommended by the last three of my predecessors. The sentiment of the people, often expressed, is clearly in favor of



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such enactment. The present primary election machinery of the state is not what it should be, and offers opportunity for abuses and irregularities in the making of nominations. Whatever legislation is had upon this subject should embody the following provisions:

The holding of the primaries of all parties on the same day and at the same places, under the direction of the county boards of elections.

The nomination of township, city, and county candidates and the selection of delegates from such subdivisions to district, state and national conventions by a direct vote.

The adoption of the Australian ballot in primary elections, making it necessary for the voter to secure his ticket when entering the voting place and to vote it before leaving, so as to do away with the 'marked ballot' evil.

The primary election should have thrown around it all the safeguards of the general election, with like penalties for those who are found guilty of infractions of the laws governing it."

Jan. 6, '08, p.39-40

**h Okl.** Haskell. "Sections 4 and 5, of article 3, of the Constitution provide for a mandatory primary for the nomination of all elective officers, United States Senators included, and makes it the duty of the Legislature to enact laws making this provision effective. In this connection I recommend:

That such primaries be held at the expense of the state, and by all political parties upon the same day throughout the state, and all its subdivisions.

That no candidate for office be required to make payment of any fee to secure the printing of his name upon the ballot.

That the amount of money that any candidate may expend directly or indirectly, or that others may expend for him, incident to his candidacy for the primary nomination, be limited, rated as to the various officers as the Legislature may deem wise, and that every such candidate at the primary election shall at the proper time (designated in the law) file a sworn statement of all moneys expended by him or in his interest by others, and the purpose for which each item of expense was incurred."

Dec. 2, '07

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## Districts. Notices. Days

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### Days. Hours

**a N. J.** Stokes. "Last year one branch of the Legislature passed a resolution for a proposed amendment to the Constitution providing for state and municipal elections on alternate years but it failed of passage in the other branch. This would seem to be the most desirable way of separating these elections. It avoids multiplicity of elections, the argument used by those who favor the consolidation of state and municipal contests, and it submits

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the question to a vote of the people of the state for their verdict. I recommend action on the part of the Legislature to this end."

Jan. 14, '08, p.27-28

- b N. J. Fort. "Various subjects of amendment of the Constitution of the state have been before the people of the state for some time. One is, an amendment that will permit of the separation of municipal from state and national elections. This, in my view, is an exceedingly popular suggestion, and there is an almost universal demand for such separation of the municipal from the state and national elections, and, until a constitutional amendment can be adopted, some provision should be made by which the tickets voted at an election should be separate, so that the municipal ticket and the state or national ticket should be voted in different boxes. The cost of two elections a year should be avoided, if possible. It is difficult now to get people to vote at one election, and the experiment of having two elections in the same year, as was the old custom, should not be tried again. Until a constitutional amendment shall be adopted providing for these elections in alternate years, I suggest that a statute be enacted providing for two boxes, and two tickets at the fall election, separating the national and state from the municipal and county officials to be voted for at such election, or the Massachusetts ballot." Jan. 21, '08, p.11-12

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## Ballots. Voting

- a W. Va. Dawson. "The section of the Constitution concerning the ballot should be amended because it is impossible to enact a proper election law under it as it now stands." Jan. 28, '08, p.8-9

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## Form

- a N. J. Stokes. ". . . It is difficult to argue against sentiment, and apparently public opinion on this subject is such that the abolition of the voting machine is a very probable outcome. In the event of their abolishment, however, consideration should be given to improving our present ballot with a view to minimizing the possibility of bribery. The discussion of this subject resulted at the last session of the Legislature in the appointment by the Senate of a committee to consider the most efficient and safest means of voting, and their report will probably be submitted at this session. A careful study of the laws of those states most advanced in the work of electoral reform will aid the Legislature in devising a blanket ballot that would best serve the purity of elections, the convenience of the voter, and make easy independence in choice. New Jersey should have the best."

Jan. 14, '08, p.34

- b N. J. Fort. ". . . Until a constitutional amendment shall be adopted providing for these elections in alternate years, I suggest that a statute be enacted providing for two boxes, and two tickets

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at the fall election, separating the national and state from the municipal and county officials to be voted for at such election or the Massachusetts ballot." Jan. 21, '08, p.12

- c N. Y. Hughes. "I renew the recommendation for the adoption of a simplified form of ballot, without the party column, in which the names of candidates for the respective offices shall appear but once grouped under the names of the offices. The present form of ballot is unnecessarily cumbrous. In some instances there have been on one ballot as many as seven separate columns of independent nominations and the name of the same candidate has appeared three and four times, in as many columns. No candidate should have more than one place on the ballot, so that there may be the smallest possible opportunity for fraudulent contrivances to secure the advantages of duplication. Appropriate designation of party may be placed opposite each name. Each voter should be required to express his choice for each office separately. All parties will be placed upon the same footing and the effect will be to encourage the nomination of candidates who will not suffer by reason of separate consideration. The uncertainty which from time to time develops with regard to the proper method of voting split tickets should be removed, and the best way of accomplishing this result is to put the voters on the same basis. Experience in other states shows that partizan fears of the effect of a simpler ballot are unfounded. There should be no unwillingness to provide for the freest expression at the polls of the popular will, and public policy demands that the strength of party organization should be maintained by the quality of its acts and candidates, and the principles for which it stands, and that it should not be permitted to proceed along the line of least resistance by means of favoring arrangements of our election machinery."

Jan. 1, '08, p.14

- d W. Va. Dawson. "The amendment made by the last session of the Legislature to section 34 of chapter 3 of the code relating to the form of ballot to be voted at general elections, became a law without my approval. I did not approve of it because I doubted seriously the efficiency of the act, and I did not disapprove it because I hoped it would be some improvement on the old law. But mature consideration brings the fear that the new law is so defective as to be almost useless."

Jan. 28, '08, p.7

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### Voting machines

- a N. J. Fort. "There is a considerable diversity of opinion on the voting machine. Personal considerations should not control in the matter. It is a question of state policy. Under our form of government, there is but one way to determine whether the people wish them or not. They must settle it for themselves. To this end, I recommend that provision be made for the people to have an opportunity to voice their sentiments on the subject at the



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next election, and that in each election district where a machine is installed, a vote shall be taken whether the machine shall remain or not, and that in the meantime no additional machines be purchased. The great objection to the machine, aside from its legality, is that the voter can not see what he votes, or know for whom he votes. This is a serious objection. The machine with a party lever, as now constructed, is a good party instrument, but the people are past desiring any aid to party tickets. Their chief aim in our day is that which will promote independent action. The easier you can make it for independent voting and the splitting of tickets the better it is for the state. We do not want men elected simply because they have a party nomination and are on the regular ticket. Such a condition is not conducive to good government. If a machine could be constructed with a vertical face upon which the names of all candidates were placed in plain view on the left of a vertical row of push buttons, one button opposite each name, and so adjusted that one button must be pushed for each candidate for whom the voter intends to vote; and, as so pushed, a cover would drop on the opposite side of the row of push buttons, disclosing the name of the candidate for whom each button was pushed, and the party lever abolished, that would be ideal, and would obviate all reasonable objection to the machine. This would be simple and perfectly apparent as to how the vote was cast. It would be the Australian ballot on a machine."

Jan. 21, '08, p.14-15

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## Registration

- a **Ga.** Smith. "I can not too strongly urge legislation which will free registration lists from the names of those not legally entitled to vote. . ." June 24, '08, p.12
- b **S. C.** Ansel. ". . . I recommend that you provide by act for new books, and that the commissioners of registration be required to revise the lists of names and transcribe to new books the names of all who are alive and entitled to vote. . ." Jan. 14, '08, p.7

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## Lists. Transfers

- a **P. R.** Post. "The election law passed in 1906 provided for an entire new registration at each election. . . The election law should be amended so as to do away with the provision for a new registration, and the present lists taken as a basis and revised in some simple and economical method." Jan. 14, '08, p. 51

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## Election officers

- a **Md.** Warfield. "A reform in connection with election machinery which I think should be adopted is in regard to the appointment of the Boards of Supervisors of Elections. I do not



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think that their selection should practically be left to the party committees of the respective parties. The Governor should be unrestricted in selecting these important officers. He should make the appointments by and with the advice and consent of the Senate. I have, during my administration, seen the abuses to which this bipartizan plan of appointment of election officers subjects us, especially in primary elections, where there is between the political managers of the two leading parties a community of interest and reciprocal arrangements."

Jan. 1, '08, p.24-25

- b N. J. Stokes. Recommends placing election officers under civil service.

Jan. 14, '08, p.31-32

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## Canvass. Contests

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## Count. Canvass. Returns

See also 192, Election officers

- a Md. Warfield. "It is conceded that the present election law is imperfect and should be amended in such a way as to provide that each ballot shall be counted in accordance with the intention of the voter for all those offices for which it is possible to clearly ascertain that intent."

Jan. 1, '08, p.24

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## CRIMINAL LAW

Penal Code and Code of Criminal Procedure

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## Criminal procedure

For recommendations applying both to civil and criminal procedure see 695, Civil procedure

- a N. Y. Hughes. "I recommend that provision be made, by a commission serving without compensation but with proper appropriations for expenses, for suitable inquiry into the methods and procedure of inferior courts of criminal jurisdiction where it would seem that our system of administering justice may be greatly improved."

Apr. 9, '08, p. 4

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## Apprehension, prosecution, indictment

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## Extradition

- a Ga. Smith. "I do not favor making a fee one of the conditions upon which the requisition is granted for a fugitive criminal, but inasmuch as a fee is required by more than one half of the states, I believe a law should be enacted authorizing the Governor to make a reciprocal charge against those states that charge us, and I therefore recommend the passage of such a law."

June 24, '08, p.24-25

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## Prosecutions

- a **La.** Blanchard. “. . . If grand juries will not do their duty, the power ought to be lodged somewhere to bring the accused before the bar for trial. I would say lodge it in the Governor. Give him, in extreme cases, where the grand jury refuses to indict, the authority to direct the Attorney General to file on behalf of the state a bill of information charging the capital offense. To do this it is necessary that article 9 of the Constitution be amended. Or, if you do not lodge the power in the Governor, then provide for a change of venue. That is to say, if the grand jury of a parish fail to indict at its first session after a capital crime shall have been committed, give the power to the Attorney General to select another parish and order the case before the grand jury of such parish for investigation, with power to indict.”  
May 11, '08, p.60

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*Grand jury*

- a **N. J.** Stokes. “The grand jury has great power for justice or injustice. If unfairly used it can impair reputations, put life and property in jeopardy, or allow the wrongdoer to escape the consequences of his crime. A power of this kind should never be intrusted to the hands of any one individual. So long as the grand jury system is maintained, the names of the grand jurors should be kept confidential for public reasons, but the jurors should be selected by lot from a proper list of eligibles prepared by a judge of some competent court. Such a jury would be above suspicion of having been ‘fixed’ or selected through influence or favoritism. With such a panel, every case would be treated upon its merits and every consideration weighed in the scales of evenhanded justice.”  
Jan. 14, '08, p.32-33
- b **N. J.** Fort. “The selection of the grand jury, at the mere personal whim of a sheriff, is, in the hands of a sheriff who holds lightly his obligations of office, a most dangerous power. The liberty of the citizens is in the hands of one man, and the criminal machinery of the state, with all its power and ignominy, may be directed most unjustly against any person, or be used to gratify personal or political ends. . . It should be made impossible hereafter. A sheriff may block the enforcement of a criminal law, by selecting a grand jury that will not indict. It is not wise to take all the power from the sheriff in the matter of selecting jurors, saying nothing of the question of the constitutional right to do so. But the drawing of grand and petit jurors should be regulated by strict law, under a system of drawings, either by the sheriff alone, or in connection with other persons as commissioners, so that impartial results may be obtained, and citizens indifferent between the State and offenders may be selected for all classes of jury duty.”  
Jan. 21, '08, p.21

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*Indictment*

- a **La.** Blanchard. "It would be a great reform to have submitted to grand juries only felony cases. Do not require them to investigate misdemeanor charges; but make it obligatory upon district attorneys to file bills of information in well supported misdemeanor cases. . ." May 11, '08, p.60
- b **Okl.** Haskell. "All attorneys for the state and county attorneys being empowered to present criminal charges by information, I recommend the adoption of proper laws requiring witnesses to appear before such attorneys and give evidence as to criminal offenses, concerning which subject the attorney may require knowledge preliminary to the filing of such information." Dec. 2, '07

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**Criminal trials**

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**Change of venue or judge**

- a **Ky.** Willson. "In order to secure the early and prompt detection, apprehension and punishment of the leaders in these conspiracies [tobacco growers] there is urgent need of some further legislation, so that when commonwealth's attorneys or judges or grand juries of the locality fail or refuse to perform their duties under the law, or are deterred by threats or intimidation, the investigation of the offense can be transferred to some county where there is no intimidation, and there fully prosecuted and tried, for many offenders feel secure now because of their power to intimidate witnesses, grand juries and local authorities in their own counties. I submit the matter to the General Assembly with the recommendation that a statute shall be adopted which shall provide, in substance, that whenever any circuit judge of this state, or the Attorney General, shall be satisfied from his own knowledge, or the written statement of the commonwealth's attorney, that such a state of lawlessness exists in any county of his district, that the officers of such county will be prevented from, or in danger of failure in, discharging their duties, or that the grand juries will be deterred or prevented from fearlessly and fairly investigating the commission of any offense against the laws of the state in any county, the circuit judge may, upon his own motion, and shall, upon the request of the Attorney General of Kentucky, order and direct the investigation of the commission of such offense to be removed to some other county, in which a fearless and fair investigation of the commission of such offense may be had, and it shall be the duty of the circuit judge of the county from which such investigation shall have been removed, to send to the clerk of the Circuit Court of the county to which such investigation shall have been removed, a statement showing what offenses it is claimed have been committed, and why the case has been transferred to the latter county for investigation, and that such statement should, upon its receipt, be spread at large upon the order book of that court, and



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that at the next term of the Circuit Court, it shall be the duty of the judge of the Circuit Court to charge the grand jury of that county, specifically, to investigate the commission of such offenses and to read to the grand jury the order of removal and statement of the judge of the court of the county from which such investigation has been transferred, or of the Attorney General, and if an indictment shall be returned by said grand jury, it shall then stand for trial in that county, and all further proceedings shall be had upon such indictment the same as if the offenses had been committed in that county." Jan. 7, '08, p.9-10

- b **Nev.** Sparks. Recommends passage of "An act to provide for changing the place of trial, in criminal cases, on the application of the state, on the relation of the District Attorney of the county wherein the indictment or information may be filed, or of any special attorney duly appointed to prosecute such case."

Jan. 28, '08

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## Evidence

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### Experts

- a **Mass.** Guild. "Again, recent notable trials have drawn attention to the utter unreliability of so called expert testimony as at present applied in our courts. Perjury of course can not be alleged in a matter of professional opinion, yet it is notorious that professional experts of apparent respectability are constantly brought forward respectively by plaintiff and defendant, testifying in exact opposition to each other. The present system, providing merely that both plaintiff and defendant may bring forward their own experts, tends to confuse a jury. Protracted cross-examination and professional controversy on the witness stand between, for example, different schools of medicine, is not conducive to securing the ends of justice. A solution of the difficulty is not easy. I believe, however, the evil might be alleviated if not absolutely cured by permitting the court of its own volition to appoint disinterested experts, who should have no connection with the case for the plaintiff or the defendant, or with such experts as either might summon. It might be also advisable to permit both parties to a suit to unite in an application to the court to appoint an expert or experts for a particular case, agreeing that such appointment shall be the exclusive source of expert testimony in that case. In either event, reasonable compensation, to be determined by the court, should be paid by the county in which the case is tried."

Jan. 2, '08, p.37-38

- b **P. R.** Post. "I would also call attention to the compensation now allowed to medical men as expert witnesses, and for performing autopsies. Frequently the life or death of an accused person is dependent upon their testimony, and it seems reasonable that the professional standing and responsibility of this class of witness should be considered and more liberal compensation allowed them than at present."

Jan. 14, '08, p.37

224 **Judgment. Sentence. Execution**

225 **Appeals. New trials**

- a **Ala.** Comer. "As unfinished business at the adjourned session, you had under consideration a bill looking to the limitation of reversals of criminal cases on technical grounds. I am informed by experienced and capable men from every section of the state that this is an important measure and should be passed. It is strongly urged that such a bill will greatly aid in securing final court decisions and promote the case of justice in very important cases."

Nov. 7, '07, p.3

228 **Sentence**

*See also 363, System of sentencing and reform*

- a **Mass.** Guild. "The laws of the commonwealth in prescribing maximum and minimum sentences for the same crime leave to the discretion of the individual judges the precise penalty to be suffered by many classes of criminals. Judges, like other men, differ, and the executive power is constantly confronted with the consideration of terms of imprisonment of criminals guilty of exactly the same offenses, but doomed by different judges to very different terms of imprisonment. In certain of the lesser courts this inequality is being corrected by constant conferences of the members of the local bench. This custom can not be too highly commended. I recommend that the chief justice of the Superior Court be authorized at his discretion from time to time to call judges of the commonwealth to a conference on such matters as may to him seem fit, that the personal equation in issuing sentences to convicted criminals may as far as possible be eliminated, and that, as far as possible, the same offense, no matter where or before whom tried, may meet with the same penalty."

Jan. 2, '08, p.36-37

234 **Crimes and offenses**

264 **Crimes against public morals and the family**

286 *Rape*

- a **La.** Blanchard. "In all cases of rape, or assault with intent to ravish, the female should, if she request it, be allowed to testify in private, before the judge, in the presence of the accused and counsel on both sides, and it should suffice for the testimony thus taken to be read to the jury. If constitutional amendment be needed, propose one. My opinion is such amendment is needed. Article 9 of the Constitution gives an accused person the right to a public trial."

May 11, '08, p.82

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**Crimes against property**

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*Injury. Trespass. Malicious mischief*

- a Ind. Hanly. "In the early spring numerous raids were made in the part of the state bordering upon the Ohio river by so called 'night riders' upon the property of persons engaged in the growing of tobacco, resulting in the destruction of a number of tobacco beds where young plants were being grown preparatory to transplanting in the fields. Many threatening letters were written warning the growers not to plant a tobacco crop for this year, and threatening personal violence and the destruction of property if the crops were planted. . . The protection of property and its peaceful enjoyment, and the preservation of the lives of its people, are among the primal reasons for the maintenance of any government. I can not consent that the government of this commonwealth shall fail in this behalf. Under the present law I have neither authority nor money with which to prevent it. I therefore recommend the enactment of a statute for the protection of tobacco growers, making the destruction of, or injury to, tobacco, either in the field or after the same shall be severed from the soil, a criminal offense, and fixing a severe penalty therefor. I also recommend legislation authorizing and directing the Governor to appoint such number of persons as he may deem necessary, to act as secret service officers, to detect or apprehend any person or persons engaged in the malicious destruction of tobacco plants or other property of persons engaged in growing, curing and marketing tobacco; giving to such officers the powers of a sheriff or other police officer to arrest and detain until a legal warrant can be obtained, any person or persons found violating any of the laws of this state enacted to prevent the destruction or injury of tobacco, and giving to the Governor authority to fix the compensation of such officers, in addition to their actual and necessary expenses, and the making of an appropriation of \$15,000 for the payment and compensation of such officers and their necessary expenses."

Sept. 18, '08

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**Corrections***See also 2140, Charities*

- a Ga. Smith. "I know that we are all agreed upon the separation of the races and that you will make ample provision in whatever legislation you pass covering this question and providing for the care upon the State Farm of female convicts whether convicted of misdemeanors or felonies." Aug. 26, '08, p.13
- b Va. Swanson. "Both humanity and good administration demand that the jails, prisons, and state reformatories should be frequently and thoroughly examined by a capable and efficient state officer. It should be seen that the buildings are clean and sanitary;



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that the prisoners receive proper treatment; are properly clothed and are fed on sufficient and wholesome food. Some of the jails are unfit for occupation and are pesthouses for the spread of contagious diseases. Unfavorable conditions, when found, should be promptly reported to the proper authorities, and these should be empowered to apply immediately effective remedies. I believe it would be far more effective and economical to have this work done by a commissioner than by a board." Jan. 8, '08, p.12

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### State prisons

- a Mass. Guild. "I respectfully suggest that attention be given to the utilization of the splendid institution at Concord for the purpose for which it was originally intended,—that is to say, a state prison. It was built for that purpose, and not for a reformatory. The buildings at Concord will easily accommodate a much larger number than those at present confined at the State Prison, and the sale of the buildings and grounds at Charlestown would provide nearly if not quite sufficient funds for the building of a new state reformatory on modern designs, with modern appliances, larger grounds, and in more appropriate surroundings."

Jan. 2, '08, p.31-32

343

### Reform schools and reformatories

346

#### *Reform schools*

- a Ga. Smith. "The reformatory for the young should be greatly improved." Aug. 26, '08, p.13
- b O. Harris. "The superintendent [of the Boys' Industrial School] recommends that the 'juvenile delinquency act' be so amended as to fix the maximum age limit at which boys may be admitted to the institution at sixteen years, instead of seventeen as at present, and the minimum age at ten years. The reason for this is that the more desperate class of offenders are the older ones and should be sent to the Reformatory, and not to the Industrial School, and that those under ten years should be placed in the children's homes. Besides, the influence of the older and more criminally inclined boys is demoralizing to the discipline of the institution. The wide experience of the superintendent and his knowledge of such matters entitle his recommendations to the greatest consideration."

Jan. 6, '08, p.16

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#### *Reformatories*

- a Md. Warfield. "The institution [House of Correction] is in need of a kitchen and dining room. The prisoners are now fed in the corridors in which the cells are located. This is unsanitary and uncleanly. I recommend an appropriation for this purpose."

Jan. 1, '08, p.65

## Convict labor

- a Ga. Smith. "While no maudlin sentiment should interpose between the criminal and the punishment for crime, I believe that we will all agree that the leasing out of convicts in Georgia should cease. For the present I suggest a plan of handling the convicts which, while promising less, is simpler and easier, but out of which I hope eventually to see grow the larger uses which I have mentioned.

1st: Submit a constitutional amendment to the people which will name the time beyond which the leasing of convicts in Georgia shall cease. This amendment should be advertised on Wednesday, September 2d, so no time can be lost in its passage.

2d: Pass a bill to raise additional revenue for your penitentiary system.

3d: Encourage each county to work its misdemeanor and felony convicts upon the public roads and upon other public improvements in the county. . .

4th: Where the quota of convicts, misdemeanors and felonies, going to a particular county is too small in number to justify their economic use by the county to receive them, permit any two or more counties to join together, consolidating their convicts and allow them to work part of the time in each county, the amount of work in each county to be apportioned according to the number of convicts each county has in the combined force. . .

5th: The state would retain charge of the balance of the convicts. The state should have two or more farms as a basis of operation. It might buy one or more iron or coal mines. Those convicts whose dangerous character might render it advisable that they be not worked upon the public roads should be retained by the state and worked on the farms or in the mines. Upon the farms the state should raise all that the convicts needed to eat. The convicts upon them should make clothes, shoes, wagons and all classes of supplies needed by the state for the convicts and their use. I have carefully examined the experiment of working convicts upon farms which has been made in a number of Southern States. Indeed, it can scarcely longer be called an experiment. It has been fully demonstrated that this class of work for negro convicts can be made profitable to the state, and yet furnish an opportunity for performing the state's duty to the convict to the fullest extent. The state should organize road-working forces with suitable machinery and from time to time build roads in those counties where the counties received no convicts. The county authorities should name the roads to be built and also bear the expenses of the convicts while working roads in their respective counties. Any profits made from the use of the convicts upon farms or mines should be used towards paying the expenses of working the convicts in the counties not receiving convicts. Any

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surplus of convicts which the counties did not take and which the state at any time is not working upon the roads in the counties could be worked upon the farms.

6th: All the money derived from this time on from the hire of convicts should be used to prepare to handle those convicts which the state must retain.

7th: Take some action providing at least for the investigation and report to the next Legislature upon the extension of the Western & Atlantic Railroad by the use of convicts."

Aug. 26, '08, p. 6-12

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### County and municipal convicts

- a Ga. Smith. "Some provision should be made for misdemeanor convicts from those counties which do not work their convicts. Especially is it important that women convicted of misdemeanor should be confined in a mode less objectionable than at the present. It might be well to provide that they should be sent to the farm at Milledgeville."

June 24, '08, p.27

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### Roads

- a Okl. Haskell. "I recommend that an immediate provision be made employing the convict labor of the state upon the construction of public highways and other public works within the state."

Dec. 2, '07

- b Va. Swanson. "The measures passed by the last General Assembly, providing for the working of prisoners in jails and of certain convicts upon the public roads have been productive of good results. The system should be continued and further enlarged. . ."

Jan. 8, '08, p.6

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### Criminal insane

- a R. I. Higgins. Separate quarters for insane criminals at State Hospital.

Jan. 10, '08, p.19

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### System of sentencing and reform

371

#### *Juvenile offenders*

*See also* 346, Reform schools

371(3)

#### JUVENILE COURTS. JUVENILE PROBATION

*See also* 374, Probation

- a Mich. Warner. "The juvenile court law enacted at your regular session was believed to be an advance step in the treatment of wayward boys and girls. While the question of its constitutionality has not been passed upon by the Supreme Court, it is believed to be gravely defective. Acting upon the advice of the Attorney General most of the Probate Courts of the state have refrained from acting under its provisions. . . The law embodies many excellent provisions and I recommend its amendment with



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a view to remedying the defects pointed out by the chief law officer of the state." Oct. 10, '07, S. J. p.25-26

- b **N. Y.** Hughes. "It should also be considered whether it is not desirable to transfer to the children's courts cases of violations of the provisions of the labor law affecting children, and prosecutions of parents for unlawfully permitting children to remain out of school. As children are necessarily involved in these cases, the same reasons which led to the establishment of children's courts would appear to justify the transfer." Jan. 1, '08, p.22-23

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*Parole*

- a **Ga.** Smith. "I recommend to your favorable consideration the parole system as part of our plan for handling convicts. With ample farm facilities connected with the general plan of handling the problem, the convict might well, during the last of his confinement, be permitted to work in citizen's clothes for a while before going back among the public. To discharge from chains and stripes a dangerous convict, with no progressive step taken by which his reformation is sought, can not be contemplated without almost a shudder of alarm when we see the danger of such a course." Aug. 26, '08, p.12-13
- b **La.** Blanchard. "To the power vested in the Governor to grant pardons on the recommendation of the Board of Pardons, should be added the power to suspend sentence and parole conditioned upon future good behavior. . ." May 11, '08, p.78
- c **N. Y.** Hughes. "The legislation at the last session extending the provisions for parole of prisoners is of great importance and devolves largely increased responsibilities upon the members of the Board of Parole. The state can not expect to retain the services of competent men unless more suitable provision is made for their compensation." Jan. 1, '08, p.19
- d **O.** Harris. "Out of a total of 69 prisoners paroled during the year, but  $4\frac{1}{3}\%$  violated the conditions of their parole and were returned to the prison. It is suggested that this per cent be further decreased by the creation of the office of Parole Officer, whose business it would be to look after the welfare of paroled prisoners. This recommendation is worthy of your careful consideration." Jan. 6, '08, p.15
- e **P. R.** Post. "The law passed at the last session providing for the granting of provisional liberty on parole to prisoners, is being thoroughly tested, and 70 prisoners have been liberated by the Governor since the law took effect. Of these only two have been recalled for abuse of their liberty. I believe, however, that the provisions of this law are slightly too lenient, and recommend that the privilege be extended only to those prisoners who have served one half of their sentences, instead of one fourth, as at present." Jan. 14, '08, p.47-48

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*Probation*

*See also 371, Juvenile offenders*

- a Mass. Guild. “. . . Your committee on judiciary can in my opinion do no more useful work than to consider the need of an extension and modernization of the present probation system. The merciful character of our laws in regard to putting cases on probation has encouraged ingenious young criminals to move from one district to another, that if detected they may seek at least to be placed on probation in one court after another, and thus escape the penalty for their misdeeds. The organization of regular gangs of disorderly young men in Boston and vicinity is believed to be due to this fact. Every judge should have on his desk at all times a corrected list brought down to date of those who have been dismissed on probation, no matter where their offense was committed. Every probation officer should be possessed of a similar list. Every probation officer should be obliged by statute to furnish some central office a daily report of names and offenses confided to his supervision, and of names dismissed from such supervision on their rehabilitation as law-abiding members of society. . . There should be a central clearing house, so to speak, for probation officers, under the control of the courts, to which detailed information should be given and from which information should be disseminated alike to all probation officers and to all courts. All probation officers are appointed by the courts. The commissioner or commissioners in charge of this office should be appointed by the Supreme Court, that the Massachusetts tradition of separating the judiciary from any hint of political influence may be maintained.” Jan. 2, '08, p.35-36

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**CIVIL LAW**

Civil Code and Code of Civil Procedure

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**Property**

379

**Real property**

381

**Tenure. Titles**

- a P. R. Post. “Every inducement should be held out to the owners of real estate in Porto Rico to establish dominion titles to their lands. It has been held that under the Spanish law a dominion title is not necessarily good as against the government. It would be advisable that the insular government waive any claim which it might have in all lands held under dominion titles, and provision made that such titles hereafter granted shall be good as against the government equally as against individuals.” Jan. 14, '08, p.36-37



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## Conveyance

*See also* 405, Mortgages; 835, Tax on deeds

- a P. R. Post. "A matter of great importance to the business interests of this island is the law governing the transfers of real estate. . . Under our present system, where the law apparently requires less than two weeks to complete a transaction, six months or a year often elapses before the business can be completed. Under modern conditions such delays are unnecessary and intolerable and must be regulated. Moreover, the cost attached to the transfer of real estate is far in excess of that in any other part of the United States. I should be the last to recommend any action which would in any way impair confidence in our land titles, but some relief must be devised for this class of business transaction."

Jan. 14, '08, p.36

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## Record

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### *Torrens system*

- a La. Blanchard. "Our present system of transferring land titles is old and cumbersome. In every sale of land it is necessary to trace title through a long chain of transfers back to the original patent or grant, or else to the time when prescription curing the title began to run. Mortgages, liens, judgments, administration of successions and other legal proceedings all present obstacles necessitating careful examination before land can be safely transferred. Many leading American states have adopted the 'Torrens system' as simplifying the title transfers. The same has been in vogue in European countries for years. It is indorsed by many bar associations and has received the recommendation of the World's Real Estate Congress. Under the 'Torrens system' the title to realty is registered as distinct from the deed. . ."

May 11, '08, p.78-79

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## Liens and mortgages

- a S. C. Ansel. Advocates repeal of the "lien law."

Jan. 14, '08, p.6

422

## Landlord and tenant

- a P. R. Post. Deplores "a very grave social condition in Porto Rico" because of wide extent of tenancy at will on municipal and private lands, and advocates municipal acquisition and distribution of small holdings.
- b S. C. Ansel. "The 'lien law' has been a source of much discussion in and out of the Legislature for many years. . . Too often the lien is 'taken up' before the crop is planted, and frequently but little work is done after the lien is 'taken up.' I think it better for landlord and tenant that it be repealed."

Jan. 14, '08, p.6



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## Contracts and other obligations

*See also* 787, Contracts and supplies (public); 835, Tax on deeds and contracts; 2113(5, Employment; 2560, Local finance

459

### Sale of merchandise

- a Ala. Comer. "The regulation of the sales of stocks of goods and merchandise in bulk, looking to the prevention of dishonest transactions by disposing of entire stocks of goods over night, when evidently done to avoid the payment of equitable and just claims, demands your attention. . . ." Nov. 7, '07, p.5
- b R. I. Higgins. Uniform sales act. Jan. 10, '08, p.22-23

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## Family

476

### Marriage

*See also* 264, Crimes against public morals and the family

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### *Parties. Age*

- a La. Blanchard. "I would also call your attention to the evil of miscegenation. . . . Something should be done to stop the practice." May 11, '08, p.61

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### Divorce

- a La. Blanchard. "Three acts were framed by the (divorce) Congress, adopted and recommended to the states for enactment. One is an act regulating annulment of marriage and divorce; another is an act providing for return of statistics relating to divorce proceedings; and the third is an act providing for return of marriage statistics. Our commissioners discuss these bills in their report and present copies of same. The importance of this subject is so great that I earnestly urge it upon your consideration." May 11, '08, p.49-50

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### *Divorce statistics*

- a La. Blanchard. "The clerk of court in each parish should be required to keep a record of divorces granted, showing the color of those divorced. . . . It is well known that the great majority of the divorce suits in Louisiana are by negroes, and since they are reported to the Government without anything indicating this, but only as so many divorces in Louisiana, the showing is a bad one for the state." May 11, '08, p.77

## Corporations

*See also* 841, Corporation taxes; 1200, Transportation; 1679, Banking; 1732, Insurance; 2627, Public utilities

- a **Md.** Warfield. "I commend to your earnest attention and prompt action a bill prepared under the direction of the Bar Association of Baltimore city to revise the corporation laws of the state of Maryland. . . The bill proposes for the formation of corporations, general powers; directors and officers, including election, organization, executive committees, and classes of directors; bylaws, meetings, amendments, consolidation and sale of corporate rights and franchises; classification; payment; transfer and call of capital stock; liability of stockholders; stockholders' rights; duties and liabilities of directors; dissolution of corporations; taxation; condemnation of property by corporations; police. . . This bill represents an effort, in the public interest, to so revise the corporation laws of the state that corporations may resort to them with safety, and corporate affairs may be conducted in an orderly and safe way. One of the beneficial effects of the passage of this law will be to lessen the number of special acts of incorporation, to the great saving of the state's time and money. It will also lessen the number of charters." Jan. 1, '08, p.22-23
- b **U. S.** Roosevelt. Recommends federal incorporation for corporations engaged in interstate and foreign commerce. Dec. 3, '07, p.10

### *Supervision. Reports*

- a **N. J.** Fort. "A department of corporations should be established, with a single commissioner at its head. All the duties now cast upon the Secretary of State, in this respect, should devolve upon this commissioner, and he should be given enlarged powers. No certificate of incorporation should be filed until it has his approval as to form and as to its compliance with the laws of our state, and no stock should be allowed to be issued by any company organized under our laws, except upon his certificate that it was issued in compliance with the law. He should have absolute control over the authority to issue stock for 'property purchased,' and cash stock should not be issued until he gives a certificate, founded upon proofs, of the payment of the requisite amount of cash into the treasury of the company. As to property purchased stock, he should be required to approve the action of the directors in authorizing such stock, and only so much of that class of stock should be allowed to be issued as the commissioner, upon the proofs before him, should permit. No mortgage to secure negotiable bonds should be allowed to be placed upon the property of any corporation until his certificate of consent thereto shall be first obtained, and the amount of the bonds to be issued stated in such certificate. The bonds never should exceed the actual value

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of the property mortgaged. He should be given visitorial powers as to any corporation, organized under the laws of this state, with the right at all times to inspect the books, papers or minutes of any company, and to take copies thereof. He should be allowed, with the approval of the Attorney General and the Governor, to take legal proceedings, in the name of the state for the protection of the rights of a corporation, or its stockholders. The time has come for the strict supervision of these great corporations, and the limitation of their stock and bond issues under some proper public official. It will make for conservatism, and strengthen the companies doing a legitimate business, and eliminate, let us hope, those which are merely speculative in character, and organized simply to catch the unsuspecting or credulous investor."

Jan. 21, '08, p.5-6

509 **Capital. Shares. Debts. Property**

- a **Ill. Deneen.** ". . . Recent disclosures seem to make imperative such legislative action as may be deemed proper to curtail the unlimited power of railroads and other corporations over the issuance of stocks and bonds. Under the present system, permitting the unlimited issuance of such securities, no means is afforded the investors in such securities to ascertain their real value. . ."

Oct. 8, '07, p.9

- b **La. Blanchard.** "Subscribers to the capital stock of corporations should be required to pay in at least 50% of the capital stock subscribed before filing charter, and the remainder within (say) two years, and such laws should be passed as will insure greater publicity and better protection to creditors and stockholders."

May 11, '08, p.82

- c **N. J. Stokes.** "The method herein suggested of issuing shares without a par value would substitute real worth for the arbitrary value fixed by the organizers of the company and would leave the determination of value where it should be left, to the determination of the laws of business and trade . . . I suggest this thought for your consideration. It eliminates the problem of overcapitalization—difficult to deal with by a Legislature without interfering with legitimate business. It could work no injury either to the corporation, stockholder or the public, and it would free the shares of the corporation from the too often false allurements of arbitrary par value and leave their values to be determined, just as are the values of real property, by the judgment of the market. One vital principle in this connection must not be overlooked. It is nominal capitalization which would be abolished and not the requirements that the company shall have any given actual capital. Actual capital will still be required. Should this plan be authorized as a positive method of incorporation, as an alternative, side by side with the present law, provision should be made for filing in the proper state department a schedule of the assets and liabilities



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ties of the corporation. This would serve as a basis for the levying of the franchise tax and a source of information to shareholders as to the value of their property." Jan. 14, '08, p.40-41

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### Dissolution. Insolvency

*See also 1743, Insurance*

- a **La.** Blanchard. "There should be legislation defining insolvent corporations and prohibiting such corporations from doing business in Louisiana, and if it is necessary to accomplish this purpose to submit a constitutional amendment to a vote of the people, it should be done." May 11, '08, p.82
- b **U. S.** Roosevelt. "A law should be passed providing in effect that when a federal court determines to place a common carrier or other public utility concern under the control of a receivership, the Attorney General should have the right to nominate at least one of the receivers; or else in some other way the interests of the stockholders should be consulted, so that the management may not be wholly redelivered to the man or men the failure of whose policy may have necessitated the creation of the receivership. Receiverships should be used, not to operate roads, but as speedily as possible to pay their debts and return them to the proper owners." Mar. 25, '08, p.2

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### Foreign Corporations

- a **La.** Blanchard. "These [foreign corporations] enter the states and are given the protection of their laws and afforded equal privileges with their own citizens to carry on business and compete in every department of industry and trade. In case of any disagreement in business between such corporations and domestic corporations, or citizens, however, they claim the right to go into a judicial tribunal other than that which is established by the states to interpret and administer their own laws. If they enter suit they choose the federal court; if they are sued themselves, they remove the case to the federal court. This privilege conferred by the federal Constitution is often abused, until what is called "government by injunction," the too frequent resort of these corporations, has become odious to the people of the states. They are crying out more and more against it. It is galling to state pride. There is a growing feeling among the people of the states that these foreign corporations, entering a state to do business, should come as a citizen on a perfect equality with every other citizen, and that if a state is good enough to do business in, its courts ought to be respected as good enough to litigate in. Recent events in Alabama and North Carolina have emphasized the tendency of some of these corporations to invoke the aid of the federal courts to an almost revolutionary point, setting at defiance the highest state authorities and creating a well-nigh intolerable situation. A powerful corporation thus disposed and thus entrenched becomes at once a source of irritation to the people and

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a menace to the state. This whole subject is before you and your consideration of the same is invited." Nov. 11, '07, p. 29-30

- b **Mich.** Warner. "An amendment is needed in the act permitting foreign corporations to do business in Michigan. Through an oversight, the word 'section' was used in place of the word 'act' in the penalty clause, so that by strict construction the penalty could only be enforced in case of a violation of the provisions of one certain section when obviously it was intended to reach violators of the act itself." Oct. 17, '07, S. J. p.50

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*Restrictions*

- a **Okl.** Haskell. Recommends that removal of action to federal court by a foreign corporation shall work a revocation of license to do business in the state. Dec. 2, '07

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## Combinations and monopolies

*See also 1272, Railways*

- a **Ky.** Willson. ". . . I submit to the General Assembly, that we need an official investigation either by the committees of the General Assembly or by persons employed under authority of law to investigate and report the underlying causes which have brought about the disorders, which have so hurt the state, and in order to discover whether there has been in fact more tobacco produced than there was a market for, or whether prices have been unlawfully and wrongfully depressed by combinations of the buyers or by the trusts, and if so, whether the statutes already on our books are sufficient to correct the evils or whether other laws are necessary for this purpose, and to take such action as the cases shall demand upon full investigation. We can not afford to permit lawlessness much less conditions which promote lawlessness to continue, nor can we resort to crude or ill advised action to correct them, and I hope the General Assembly will give its best care and work to a careful investigation and consideration of the situation and to measures of relief." Jan. 7, '08, p.11
- b **Okl.** Haskell. "Trust and monopoly practices should also receive your attention, and a little later the Attorney General, who is now conducting active and efficient investigation, will be able to advise what further law is needed on that subject. I have at this time, however, to earnestly recommend that in defining penalties for violation of the laws against trusts and monopolies it is most important that punishment by imprisonment in all cases shall be a part, at least, of the penalty. It is by imprisonment of the real offender that the best results will be obtained." Dec. 2, '07
- c **U. S.** Roosevelt. "Moreover, in my judgment there should be additional legislation looking to the proper control of the great business concerns engaged in interstate business, this control to



be exercised for their own benefit and prosperity no less than for the protection of investors and of the general public. As I have repeatedly said in messages to the Congress and elsewhere, experience has definitely shown not merely the unwisdom but the futility of endeavoring to put a stop to all business combinations. Modern industrial conditions are such that combination is not only necessary but inevitable. It is so in the world of business just as it is so in the world of labor, and it is as idle to desire to put an end to all corporations, to all big combinations of capital, as to desire to put an end to combinations of labor. Corporation and labor union alike have come to stay. Each if properly managed is a source of good and not evil. Whenever in either there is evil, it should be promptly held to account; but it should receive hearty encouragement so long as it is properly managed. It is profoundly immoral to put or keep on the statute books a law, nominally in the interest of public morality, that really puts a premium upon public immorality, by undertaking to forbid honest men from doing what must be done under modern business conditions, so that the law itself provides that its own infraction must be the condition precedent upon business success. . . . The antitrust law should not be repealed; but it should be made both more efficient and more in harmony with actual conditions. . . . The Congress has the power to charter corporations to engage in interstate and foreign commerce, and a general law can be enacted under the provisions of which existing corporations could take out federal charters and new federal corporations could be created. An essential provision of such a law should be a method of predetermining by some federal board or commission whether the applicant for a federal charter was an association or combination within the restrictions of the federal law. Provision should also be made for complete publicity in all matters affecting the public and complete protection to the investing public and the shareholders in the matter of issuing corporate securities. If an incorporation law is not deemed advisable, a license act for big interstate corporations might be enacted; or a combination of the two might be tried. The supervision established might be analogous to that now exercised over national banks. At least, the antitrust act should be supplemented by specific prohibitions of the methods which experience has shown have been of most service in enabling monopolistic combinations to crush out competition. The real owners of a corporation should be compelled to do business in their own name. The right to hold stock in other corporations should hereafter be denied to interstate corporations, unless on approval by the proper government officials, and a prerequisite to such approval should be the listing with the government of all owners and stockholders, both by the corporation owning such stock and by the corporation in which such stock is owned. To confer upon the national govern-



ment, in connection with the amendment I advocate in the anti-trust law, power of supervision over big business concerns engaged in interstate commerce, would benefit them as it has benefited the national banks." Dec. 3, '07, p.5-10

d U. S. Roosevelt. ". . . The law should correct that portion of the Sherman Act which prohibits all combinations of the character above described, whether they be reasonable or unreasonable; but this should be done only as part of a general scheme to provide for this effective and thoroughgoing supervision by the national government of all the operations of the big interstate business concerns. . . ." Jan. 31, '08, p.8

e U. S. Roosevelt. "In the modern industrial world combinations are absolutely necessary; they are necessary among business men, they are necessary among laboring men, they are becoming more and more necessary among farmers. Some of these combinations are among the most powerful of all instruments for wrongdoing. Others offer the only effective way of meeting actual business needs. It is mischievous and unwholesome to keep upon the statute books unmodified a law, like the antitrust law, which, while in practice only partially effective against vicious combinations, has nevertheless in theory been construed so as sweepingly to prohibit every combination for the transaction of modern business. Some real good has resulted from this law. But the time has come when it is imperative to modify it. Such modification is urgently needed for the sake of the business men of the country, for the sake of the wageworkers, and for the sake of the farmers. The Congress can not afford to leave it on the statute books in its present shape. . . ."

The substantive part of the antitrust law should remain as at present; that is, every contract in restraint of trade or commerce among the several states or with foreign nations should continue to be declared illegal; provided, however, that some proper governmental authority (such as the Commissioner of Corporations acting under the Secretary of Commerce and Labor) be allowed to pass on any such contracts. Probably the best method of providing for this would be to enact that any contract, subject to the prohibition contained in the antitrust law, into which it was desired to enter, might be filed with the Bureau of Corporations or other appropriate executive body. This would provide publicity. Within, say, 60 days of the filing—which period could be extended by order of the department whenever for any reason it did not give the department sufficient time for a thorough examination—the executive department having power might forbid the contract, which would then become subject to the provisions of the antitrust law, if at all in restraint of trade. If no such prohibition was issued, the contract would then only be liable to attack on the ground that it constituted an unreasonable restraint of trade. Whenever the period of filing had passed without any such pro-

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hibition, the contracts or combinations could be disapproved or forbidden only after notice and hearing with a reasonable provision for summary review on appeal by the courts. Labor organizations, farmers organizations, and other organizations not organized for purposes of profit, should be allowed to register under the law by giving the location of the head office, the charter and by-laws, and the names and addresses of their principal officers. In the interest of all these organizations—business, labor, and farmers organization alike—the present provision permitting the recovery of threefold damages should be abolished, and as a substitute therefor the right of recovery allowed for should be only the damages sustained by the plaintiff and the cost of suit, including a reasonable attorney's fee.

The law should not affect pending suits; a short statute of limitations should be provided, so far as the past is concerned, not to exceed a year. Moreover, and even more in the interest of labor than of business combinations, all such suits brought for causes of action heretofore occurred should be brought only if the contract or combination complained of was unfair or unreasonable. . . .”

Mar. 25, '08, p.2-4

- f **U. S. Roosevelt.** Renews recommendation for revision of Sherman antitrust law.

Apr. 27, '08, p.5

590

## Administration of justice

600

### Courts

Names and general organization of courts vary greatly in different states. Courts are here grouped according to actual jurisdiction. The precise names of the courts are preserved in entries. *See also* 2359, Law libraries

- a **N. J. Stokes.** “The reconstruction of our courts in the interest of speedier justice to the litigant has been long a mooted question. Our present judicial system was devised under the conditions of 60 years ago. The business of today is greater in volume and speedier in action, and it requires a corresponding haste in judicial determination. . . . I earnestly commend this subject to your thoughtful consideration with a view to submitting to the people such amendments for the reorganization of our courts as will enable our judiciary to proceed unhampered, and to maintain the high character of Jersey justice.”
- Jan. 14, '08, p.29
- b **N. J. Fort.** “There would seem to be no good reason for the refusal to submit to the people for their approval, definite amendments looking to the simplification of our judicial system. No lawyer of repute, or other citizen familiar with the facts, advocates the continuance of our Court of Errors and Appeals as at present constituted. It is an anomaly in the judicial systems of all the states. It is too large for expeditious labor or satisfactory conferences. And it has other defects. The ideal judicial system is



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that which has but two courts — one with original jurisdiction, and the other with appellate power only. It is important in the administration of the law, that trials should be had and decisions rendered, promptly. Delays impede justice, and benefit only those who may desire to hinder or annoy the suitor. The pending report of the last commission on the reorganization of our courts is one to which I can give my approval in practically every detail, except as to the method of constituting the Court of Pardons. The Court of Pardons should be composed of the Governor and four other persons, specially appointed. The proposed amendments, if adopted, will give greater efficiency in the trial court, while reducing the cost of the courts to the state by something like \$40,000 per annum.”

Jan. 21, '08, p.13

603

### Reports. Reporters

- a P. R. Post. “The decisions have been accumulating since the foundation of civil government and but a very small proportion have been translated and edited, while day by day the accumulation increases, as the work of the Supreme Court proceeds. An appropriation should be made to immediately put on a force of translators sufficient to promptly dispose of the former decisions and provision also made to continue a permanent force adequate to keep the work up to date.”

Jan. 14, '08, p.33

605

### Supreme courts

Including only those highest in state of whatever name, e.g. Court of Appeals but not Supreme Court of New York. In New York, New Jersey and elsewhere the Supreme Court is a district court and is classed below others. The Court of Appeals in New York, New Jersey, Kentucky and Maryland is the highest court, but in Colorado, Kansas, Missouri and Texas it is subordinate to the Supreme Court.

- a S. C. Ansel. “I desire again to call your attention to the necessity of better accommodations for the Supreme Court. . . .”
- b W. Va. Dawson. “. . . The Supreme Court of Appeals greatly needs relief. Its docket is growing larger year by year, and it is difficult for the judges to keep up with the work. As they are already overworked, and as the business of the court is increasing, it is only a question of a short time when the court will be compelled to fall behind the docket, and this will result in many cases in a practical denial of justice. Besides, judges should not be overworked, especially the judges of the highest Court of Appeals. Weary brains can not produce clear thinking.”

Jan. 14, '08, p.10-11

Jan. 28, '08, p 9-10



609

### Intermediate courts

For officers and judges *see* 657-94; *see also* 371(3, Juvenile courts

- a **Ky.** Willson. Recommends redistricting in judicial districts.

Jan. 7, '08, p.16

- b **W. Va.** Dawson. "Under the provisions of our Constitution as they now stand, if two counties, near enough together to justify combining them into a circuit, need a Criminal Court, the work of which could be attended to by one judge, it is impossible to do such a practical and economical thing, but each county must have its own judge. If we are to continue having Criminal Courts the Legislature should have authority to combine counties into circuits under one judge. But there are those who favor the abolishing of all criminal courts and the enlargement of the judicial circuits, with three judges in each circuit, who would have authority to divide the work among themselves, apportioning to one judge the criminal business of the court, to another the chancery, and to another the law; and in order to give much needed relief to the Supreme Court of Appeals, creating from among the circuit judges an intermediate court of appeals. . ."

Jan. 28, '08, p.9

645

### Inferior courts

653

#### Justice of the peace

- a **P. R.** Post. "Under the present system the justices of the peace are appointed by the Governor, but the payment of their salaries, and even the amount thereof, is dependent upon the will of the councils of the respective municipalities. I recommend the passage of an act fixing the salaries of the justices, and the expenses of their courts, and requiring provision therefor in the budgets of the municipalities."

Jan. 14, '08, p.36

655

### Municipal and police courts

- a **P. R.** Post. ". . . I urge for your earnest consideration the advisability of increasing the number of municipal courts in the island. It is true that this will add somewhat to the budgetary appropriation, and it is equally true that some of these courts will not be able to show receipts from business equal to the cost of maintaining them, but we can not require the maintenance of justice on a purely commercial basis."

Jan. 14, '08, p.35

- b **P. R.** Post. "The judges of the municipal courts are now elected by popular suffrage, for a term of four years. I can not urge too strongly that these judges be appointed for a term, rather than elected. If by chance an unscrupulous man is elected to office it places in his hands a tremendous power over the most defenseless class in the island, and on the other hand a good but timid man has constantly hanging over him the fear of antagonizing criminal elements whose influence may have weight at the polls.

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Courts must be free from all outside influences, and it is not fair nor just to subject our judges to the pressure which may be brought to bear upon them through political obligations. Also, as the judges of these courts are not permitted to engage in private practice, nor have they any time for outside work, it is difficult to retain competent men in the positions, and I would strongly urge an increase in the salaries of the judges in the larger districts."

Jan. 14, '08, p. 35

657

## Court officers

668

### Judges

*See also 710, Change of venue or judge*

a N. J. Fort. "The judges of our higher courts should not receive excessive salaries, or be permitted to engage in any other business or occupation. They should be deemed to be set apart for the administration of justice only. The honor of the place, and the confidence of their fellow citizens, expressed through the appointing power, should be a sufficient inducement to secure the most able and conscientious of the legal profession to accept judicial positions. The judicial department is the one head of government upon which, in the last analysis, the safety of the republic and the state rests. Independence of action, freedom from favoritism, impartiality to all suitors, high or low, rich or poor, corporate or individual, and absolute abstinence from any kind of political relations, must be maintained by the judges, if the confidence of the people is to continue in the judicial department of our government. To insure this, the judges of our higher courts must be made to feel, on entering upon their duties, that their income is safe, irrespective of political changes, permanent ill health in office or old age. The salary of the office will not then be an inducement to enter upon judicial duties, but rather the opportunity for distinguished public service. . . Our state should authorize the retirement of her judges upon one third or one half pay, in case they are permanently stricken in office, or upon their arriving at the age of 70 years, after a consecutive service of a least 21 years, in judicial position. This would make the judicial position all that I have tried to indicate that it should be, and I am sure such an act will meet with universal public approval." Jan. 21, '08, p. 13-14

b N. Y. Hughes. "The salaries of justices of the Supreme Court show extraordinary incongruities. . . The practice of increasing compensation by allowances in lieu of expenses should not be continued. Compensation should be fixed as such, and actual expenses when properly payable should be paid as such. In view of the constitutional provision that the compensation of justices shall not be increased or diminished during their official terms, I recommend that a resolution be passed proposing a constitutional amendment which shall fix the salaries of trial justices and justices of the appellate division of the Supreme Court on a suitable basis,

668

and shall prohibit any other compensation or allowance in lieu of expenses." Jan. 1, '08, p.28-29

- c P. R. Post. ". . . I strongly urge that some method be devised whereby the salaries of all the judges and fiscals of the District Courts may be raised to an amount sufficient to properly recompense them for the duties and responsibilities of their positions." Jan. 14, '08, p.34

- d R. I. Higgins. ". . . I respectfully recommend a reasonable increase in the salaries of the judges of our Supreme and Superior Courts. . . ." Jan. 10, '08, p.16

- e S. C. Ansel. Recommends increase in salaries of judges of Supreme and Circuit Courts. Jan. 14, '08, p.14

675

### Public prosecutor

*See also 50, Attorney general*

- a P. R. Post. "Another defect in the practice of our municipal courts is that in criminal cases the judge is obliged to investigate all the circumstances and virtually prepare the case for the prosecution, as well as to pass upon it as judge. While in small districts this does not work so much hardship, in some of the larger ones it is absolutely impossible for the judge to properly investigate the large number of cases which come before him, and injustice must often result. Provision might properly be made in the larger districts for a prosecuting attorney for the municipal courts, at a moderate salary." Jan. 14, '08, p.35-36

695

### Civil procedure

Including such provisions as apply both to civil and criminal cases

708

### Trial. Pleadings

710

### Change of venue or judge

*See also 668, Judges*

- a Okl. Haskell. "Referring to the provision of the federal law that a citizen of another state (natural or artificial) may in an action by or against a citizen of this state, either by original filing or by subsequent removal, avoid the courts of this state, and have his case tried in the federal courts, in case the amount involved be more than \$2000; there are many instances in which I consider this is unfair to the people of our state, and gives a special privilege to the noncitizen, greater, I believe than Congress intended they should have; and I also believe Congress, in its wisdom, contemplated that the states might regulate this in certain cases. For example, the foreign corporation, which practically domiciles itself in our state by setting up its agency, obtaining a certificate authorizing it to do business within our state, and constantly dealing with our citizens, it is my opinion that such corporations should



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be required to submit differences with our citizens to the courts of the state. While I do not reflect upon the federal courts as an inadequate opportunity for securing justice, the limited number of federal courts makes it necessary for many of our people to incur the expense and loss of time traveling great distances and waiting for their day of trial in a crowded forum, instead of being permitted to enjoy the convenience of a court in a county where they reside, and where the cause of action arose. I find that many foreign corporations have taken their charters from distant states in order to enjoy just such special privileges. I also find that they avail themselves often of the special privilege of carrying causes to the federal courts as a means of inducing unfair settlement. I believe that these corporations which come into our state to do business and obtain a state license for that purpose, are to be welcomed by us as a part of the business interests of the state, and that they should have just protection and an opportunity to secure justice in our state courts, but I do not believe that they should enjoy this special privilege, which, while a favor to them, is a hardship upon our citizens. Therefore, believing that Congress intended that states might provide reasonable limitation upon the general provisions, I recommend that such removal of causes from the state to the federal courts by foreign corporations shall work a revocation of their license to do business within the state."

Dec. 2, '07

726

**Jury. Verdict**

728

**Fees and mileage**

- a P. R. Post. "Proper compensation should be given to those citizens who are called to serve as jurors." Jan. 14, '08, p.37

730

**Qualifications. Drawing. Impaneling**

- a La. Blanchard. "So universally are newspapers read in these days and so enterprising are they in publishing full details of important crimes committed, that it is difficult to find intelligent men in a community where such crime has been committed who can pass the ordeal of examination for service in the jury box. It would be well, therefore, to declare that on examination of a proposed juror it shall not be competent to ask him, either on direct or cross-examination, whether he has formed an opinion on a newspaper report. Such reports, at best, are recitals of rumors heard, or hearsay statements, and because they are in print should not entitle them to greater weight than is attached to such statements made orally. If a proposed juror is otherwise qualified and is prepared to render an impartial verdict on the evidence submitted and the law expounded, let him be accepted for service in the case."

May 11, '08, p.81-82

## Special actions

Contracts, *see* 453

749 Writs: certiorari, injunction, mandamus, prohibition, quo warranto, scire facias

- a U. S. Roosevelt. “. . . I earnestly commend to the attention of the Congress this matter, so that some way may be devised which will limit the abuse of injunctions and protect those rights which from time to time it unwarrantably invades. . . .”

Dec. 3, '07, p.18-19

- b U. S. Roosevelt. “I again call your attention to the need of some action in connection with the abuse of injunctions in labor cases. . . . Even though it were possible, I should consider it most unwise to abolish the use of the process of injunction. It is necessary in order that the courts may maintain their own dignity and in order that they may in effective manner check disorder and violence. The judge who uses it cautiously and conservatively, but who, when the need arises, uses it fearlessly, confers the greatest service upon our people, and his preeminent usefulness as a public servant should be heartily recognized. But there is no question in my mind that it has sometimes been used heedlessly and unjustly, and that some of the injunctions issued inflict grave and occasionally irreparable wrong upon those enjoined.”

Jan. 31, '08, p.3-4

- c U. S. Roosevelt. “I also urge that action be taken along the line of the recommendations I have already made concerning injunctions in labor disputes. No temporary restraining order should be issued by any court without notice; and the petition for a permanent injunction upon which such temporary restraining order has been issued should be heard by the court issuing the same within a reasonable time—say, not to exceed a week or thereabouts from the date when the order was issued. It is worth considering whether it would not give greater popular confidence in the impartiality of sentences for contempt if it was required that the issue should be decided by another judge than the one issuing the injunction, except where the contempt is committed in the presence of the court, or in other case of urgency.”

Mar. 25, '08, p.1-2

- d U. S. Roosevelt. “. . . As regards injunctions, some such legislation as that I have previously recommended should be enacted. They are blind who fail to realize the extreme bitterness caused among large bodies of worthy citizens by the use that has been repeatedly made of the power of injunction in labor disputes. Those in whose judgment we have most right to trust are of the opinion that while much of the complaint against the use of the injunction is unwarranted, yet that it is unquestionably true that in a number of cases this power has been used to the grave injury of the rights of laboring men. I ask that it be limited in some

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such way as that I have already pointed out in my previous messages, for the very reason that I do not wish to see an embittered effort made to destroy it. . .” Apr. 27, '08, p.2-3

## ADMINISTRATIVE LAW

This and Constitutional law, 15, make up what is commonly known as the Political Code.

770

## Finance. Public property

*See also* 2237, School finance; 2550, Local finance

774

### Public lands

*See also* 2240, School lands

776

### Sale. Settlement. Appraisal

**a** **La.** Blanchard. “The existing public land laws fixing prices should, I respectfully submit, be gone carefully over and revised and the prices raised. . . It is not my view, in making this recommendation, that the price of our public lands be increased to bona fide homesteaders. . . If it be true, as claimed by the present register, that the incumbent of the State Land Office has the authority to sell any and all lands to which the state may be entitled under the congressional grants, in advance of their selection and approval, there should be legislation withdrawing such authority. The fact that the claim is made that he has such authority, and that it was sought to be exercised in the case of the Sabine river islands involving eight or ten thousand acres of land, suffices to show that the matter is involved in some doubt. I believe it to be wise to remove the doubt by more specifically defining just what are the powers of the head of the State Land Office.” May 12, '08, p.65-70

**b** **U. S.** Roosevelt. “The land law system which was designed to meet the needs of the fertile and well watered regions of the Middle West has largely broken down when applied to the dryer regions of the Great Plains, the mountains, and much of the Pacific slope, where a farm of 160 acres is inadequate for self-support. In these regions the system lent itself to fraud, and much land passed out of the hands of the government without passing into the hands of the home maker. . . The recommendations of the Public Lands Commission are sound, for they are especially in the interest of the actual home maker; and where the small home maker can not at present utilize the land they provide that the government shall keep control of it so that it may not be monopolized by a few men. The Congress has not yet acted upon these recommendations; but they are so just and proper, so essential to our national welfare, that I feel confident, if the Congress will take time to consider them, that they will ultimately be adopted.



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Some such legislation as that proposed is essential in order to preserve the great stretches of public grazing land which are unfit for cultivation under present methods and are valuable only for the forage which they supply. These stretches amount in all to some 300,000,000 acres, and are open to the free grazing of cattle, sheep, horses and goats, without restriction. Such a system, or rather such lack of system, means that the range is not so much used as wasted by abuse. . . . The federal government should have control of the range, whether by permit or lease, as local necessities may determine. Such control could secure the great benefit of legitimate fencing, while at the same time securing and promoting the settlement of the country.”

Dec. 3, '07, p.29-31

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**Mineral**

- a U. S. Roosevelt. “. . . In my judgment the government should have the right to keep the fee of the coal, oil, and gas fields in its own possession and to lease the rights to develop them under proper regulations; or else, if the Congress will not adopt this method, the coal deposits should be sold under limitations, to conserve them as public utilities, the right to mine coal being separated from the title to the soil. The regulations should permit coal lands to be worked in sufficient quantity by the several corporations. The present limitations have been absurd, excessive, and serve no useful purpose, and often render it necessary that there should be either fraud or else abandonment of the work of getting out the coal.”

Dec. 3, '07, p.34

779

**Buildings. Property and supplies**

780

**Buildings and grounds**

- a P. R. Post. “Appropriations should be made for the purpose of putting into thorough repair all government buildings, especially those occupied by the Charity Schools in Santurce.”
- Jan. 14, '08, p.39
- b P. R. Post. “I also call your attention to the advisability of the construction of a building for insular purposes in some of the larger towns of the island. . . . In almost all cases the government is obliged to rent quarters for these offices, and it would be a measure of economy to construct a proper building to contain all the local offices of the insular government.”

Jan. 14, '08, p 40

781

**Capitol**

- a La. Blanchard. “Thought should begin to be taken on the subject of a new State Capitol building. Our present one belongs to a past age. Our sister states of the South have built or are building new and modern State Capitols. It is not too soon to agitate the question. Louisiana has become a great state and in the not distant future should have a State House commensurate

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with her position as such. A public building, in commodiousness and grandeur, should far surpass the needs of the present. It should be constructed from the standpoint of 50 years in the future."

May 12, '08, p.78

- b O. Harris. "The Adjutant General again calls attention to the crowded condition of the State House, and asks appropriations to replace and repair the walks in the Capitol yard, and to repair the terrace walls, some of the stones of which are crumbling, making the terrace actually dangerous at times when crowds of people are gathered upon them."

Jan. 6, '08, p.31

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*Executive mansion*

- a Ky. Willson. "The old time-honored mansion is worn out, dilapidated and untenable in its present condition, and the location is undesirable and will be still more so when the public offices are removed to the new Capitol, across the river, and while the Governor has ample authority under the law to make all necessary repairs, after careful examination of the property with the Custodian of Public Buildings and inviting estimates of the expense of necessary repairs, all of which will be submitted to the General Assembly, it seems that the necessary repairs to make the house tenantable would cost several thousand dollars, and then it would still be an old house, and if the General Assembly should decide to build a new mansion south of the river near the new Capitol, any money spent upon the old house would be thrown away, and it would be best to sell the old property, which is worth nearly enough to build a new, substantial, durable house in the neighborhood of the new Capitol. But I leave the whole matter to the General Assembly to decide whether to build a new house, or repair the old one or do neither and rent a suitable residence. . ."

Jan. 7, '08, p.12

- b S. C. Ansel. ". . . I recommend that a commission be appointed to look into the matter and report to the next session of the General Assembly the probable cost and the feasibility of erecting same [Governor's mansion]."

Jan. 14, '08, p.14

783

*State architect*

- a Ill. Deneen. "There was presented to you at your last session certain questions relative to the law governing the office of State Architect and a bill was submitted effecting a proposed revision of that law. Since your adjournment I have consulted the State Architect in reference to this matter, and am convinced that the present law needs revision; and that especially the feature of compensation which is now fixed at 1½%, should receive attention. The State Architect informs me that this percentage is entirely inadequate to meet the necessary expenditure for the high class architectural services which the work of the state demands, and that the lowest percentage upon which the State Architect



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can satisfactorily perform the work required of him is  $2\frac{1}{2}\%$  of the total cost of the structures whose architectural drawings, plans and specifications he is obliged to prepare. In support of this contention, the State Architect has submitted to me a statement showing that the net cost to an architect for services rendered in private practice averages more than 3% of the cost of the work. The cost to the office of the architect of the School Board of Chicago for preparing plans and specifications and for general supervision exceeds 3% of the cost of the building. The cost to the architect under whose supervision the federal government printing office was built, for draughtsmen and office expenses, amounted to  $6\frac{6}{10}\%$  of the cost, exclusive of the cost of experts in heating, ventilation, plumbing, electrical installation and the architect's salary. In England 5% of the cost of the work is paid the architect for expenses, and for other work usually done in this country by an architect the owner pays 2% additional to a surveyor. In the state of New York the State Architect receives a salary of \$7500 and the expenses of his office are unlimited, being paid from special appropriations. As only in New York and Illinois the office of State Architect really exists, no further comparison can be made. In conformity with these views, a bill has been prepared under the supervision of the State Architect, for submission to your honorable body, amending the present law and providing for compensation to that office at the rate of  $2\frac{1}{2}\%$  of the cost of buildings erected. As provision has been made for the erection of a number of buildings and as, in their erection, the state should be protected by the best professional services, I call this matter to your attention as one meriting consideration at the present session."

Oct. 8, '07, p.8-9

- b P. R. Post. "We are constructing many schoolhouses, and we will soon build a Capitol and a Penitentiary. The government might properly provide for the permanent employment of a duly qualified architect, who should have charge or inspection of all such construction and repair work for the government."

Jan. 14, '08, p.39-40

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## Property and supplies generally

787

*Contracts and supplies*

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## OFFICERS: INTEREST IN CONTRACTS

- a Okl. Haskell. "I am advised that many of the companies, or individuals, seeking to supply the public within our state with school books and other necessities, make it a practice to secretly employ many of those connected with schools or other professions and official positions, upon whose advice the public is supposed, and has a right, to rely. The secret character of such employment places the public at a disadvantage. . . I therefore, recommend that all such employees or representatives of persons or corporations seeking to sell school books or other supplies to the public



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should be required immediately upon accepting such employment to evidence that fact by such recorded notice as you deem proper, giving public notice of the fact that they are a representative of such person or corporation, and that a failure to give such public notice shall be declared to be a crime, and be punishable by such fine or imprisonment as you may find proper." Dec. 2, '07

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*State institutions*

- a N. Y. Hughes. "The same reason obtains with reference to purchases of provisions and supplies in the various institutions. To a large extent supplies of the same sort are required in the different institutions, and it is desirable that these should be purchased by the state under one system and through a single board. This can be accomplished by having purchases made through the same board of control, representing all institutions, as that which fixes the salaries. The action of the board may be made subject to the approval of the Comptroller and the Governor."

Jan. 1, '08, p.20

- b O. Harris. "Supplies for the state institutions should be purchased after an opportunity has been given to all business houses to bid thereon — excepting emergencies limited to a certain sum per month.

Section 643 of the Revised Statutes provides: Whenever, in the opinion of any board of trustees, the interests of the state, and of the institution under their charge, will be subserved thereby, said board shall advertise for sealed bids to furnish, at the institution, any article or articles needed.

I have urged that this section be observed, except the requirement to advertise, in all the state institutions. Where it has been enforced, it has resulted in a saving to the state, without lowering the standard of the commodities purchased. I regret that efforts to enforce this law, in some instances, have not met with the success that I had hoped for. . . I recommend that section 643 be amended and made mandatory."

Jan. 6, '08, p.32-33

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**Taxation (general)**

Relating chiefly to general property taxes. Under local finance are placed only those tax laws which strictly belong there, as limitations of rates, etc. State and local taxes are usually collected together by local authorities; hence a separation would be confusing.

- a Ill. Deneen. "Another matter requiring merely formal action upon the part of the General Assembly relates to the appointment of a Revenue Commission. The bill authorizing the appointment of a commission to inquire into the subject of taxation for state and local purposes, which received the approval of your honorable body at its last session, I was reluctantly obliged to veto upon constitutional grounds. As the General Assembly has al-

ready given this matter full consideration and approval and it remains only to authorize the appointment of a suitable commission, I . . . suggest that action be taken at the present session. . . .”

Oct. 8, '07, p.7

- b **Kan.** Hoch. “. . . It [Tax Commission Law] provides for the assessment of all property at its actual value, and for the enforcement of this provision, which indeed is not a new one but which under the old system resulted in the assessment of property at not more than one fourth its value. This new law, which thus provides for so great an increase in valuations, unfortunately failed to provide for a proportionate decrease in possible levy. This has given rise to grave apprehensions on the part of many taxpayers lest disbursing boards take advantage of the opportunity and greatly increase the burdens of taxation. I think this fear is exaggerated, but it is well to remove it and the occasion for it by limiting the possible levy in such a way that the burdens of taxation will not be increased, but instead, decreased, as they should be under the operation of this new law. . . .”

Jan. 16, '08, p.5

- c **Ky.** Willson. “Experience has shown that our system of taxation was based upon the theory that equality of taxation required a flat or level rate on all kinds of property, real and personal alike, but it has turned out that this rule for equality has resulted practically, in gross inequality and unfairness, serious injury to our business interests, and in driving out of the state great sums of moneys and values of personal property, which were needed to build up the state, without producing in taxes anything like the amount of revenue that should be received from such property. Other states, upon this experience, have changed their tax laws to a low rate upon personal property, which has, in experience, been found to produce far more money than the higher rate. The high rate on personal property, taking a very large proportion, often one half of the total income, is an irresistible temptation to many owners of such property to conceal it from the assessor, where a moderate rate would be far less likely to produce this result. . . . And I submit with this message a draft of a resolution for constitutional amendment, which is the result of careful study of the matter by many able and honest men, for such action as the General Assembly shall deem proper. It is my purpose and wish, upon the adjournment of the General Assembly, and before its next session, to give the great subjects of taxation, education and good roads, the most careful, painstaking and exhaustive study, and to call to my aid in that work the services, counsel, advice and work of the best men I can find in Kentucky who are willing to help, and I hope that the result of this work will be of lasting usefulness to the state. I shall not ask for any commission or boards, but hope provision will be made for actual, reasonable expenses of such investigation.”

Jan. 7, '08, p.19-21



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- d La.** Blanchard. "All officials having to do with taxation, whether invested with the direct power of levying taxes, or with that of assessing property for purposes of taxation, should hold their commissions direct from the people. In this is involved the principle of taxation and representation. . . They should be made elective by the people, and I so recommend."

May 12, '08, p.4-5

- e La.** Blanchard. ". . . Now 12 or more states of the union have permanent tax commissions and others are preparing the way for them. We should have one in Louisiana—a permanent tax commission of three members, whose whole time should be given to the work committed to their hands. This commission should be given all the power granted to similar commissions elsewhere, and, in addition, the power now vested in the State Board of Assessments. . ."

May 12, '08, p.19

- f Mass.** Guild. "At the recent National Tax Convention interstate and international comity was for the first time recognized. I commend all the resolutions of this convention to your attention, but particularly those covering double taxation. It is unjust that property existing, for example, in New York, should be by succession tax taxed once in New York where it exists and again in Massachusetts where the heir resides. It is equally unjust that property, let us say mines or real estate, existing in the United States, should be taxed once in the country where it is and again abroad where it is owned, or vice versa. I trust that Massachusetts may take the lead, even at some slight sacrifice to her own revenue, if need be, in inaugurating a campaign for interstate and international comity. . ."

Jan. 2, '08, p.26-27

- g Okl.** Haskell. "I recommend legislation providing for the early valuation, for tax purposes, of all taxable property throughout the state to the end that each and every part of the state may under the same valuation and at the same time be called upon for the payment of state taxes, and in taxing property. . . I recommend that all incomes in excess of \$3000 per year be taxed; that all inheritances in excess of \$10,000 be taxed, and that all franchises and productions be taxed, all such taxes to be at a fair and equitable rate, particularly to the end that all classes of property, sources of benefit and incomes may bear their just proportion of the expenses of the government, and that this legislation be classed as emergency and remind you that express companies should be made taxpayers."

Dec. 2, '07

- h W. Va.** Dawson. "There has been great increase since 1904, when they were assessable by the local assessors, in the taxable value of the property of pipe lines and oil and gas companies, in that of water and electric light companies, in that of telegraph and telephone companies, and in the property of express companies. In some of these items it is believed that the increase is *more than ten times*. To leave this property, the value of which has been so enormously increased, and the other property of the state, with



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no protection against extravagance, incompetency or something worse, of local levying bodies, other than the constitutional limitation made to fit the conditions of 1872, would be unjust, an act of bad faith, and a violation of the pledges of the political party to which a majority of you and myself belong. . . In my judgment, it is the duty of this Legislature to enact proper laws to limit the rate of levies for taxation by county courts, boards of education, and the authorities of municipal corporations, and to regulate the laying of such levies. . .” Jan. 28, '08, p.5-6

- i **W. Va.** Dawson. “Section 1 of article 10 [of the Constitution] should be amended so that the Legislature may classify property for taxation and exempt bonds of counties, cities and the like from taxation. . .” Jan. 28, '08, p.8

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### Separation of state and local taxation

- a **La.** Blanchard. Separation of state and local taxation. May 12, '08, p.18-23
- b **Mass.** Guild. “The course of the General Court under the pressure of certain combined local political influences has been utterly illogical. It has steadily relieved cities and towns of one burden after another, and as steadily stripped the commonwealth of one source of revenue after another, to the encouragement of extravagance in local administration by giving cities and towns a revenue that logically and legitimately belongs to the commonwealth. This is in part true in regard to the revenue from liquor licenses. It is notoriously true as to the corporation tax. The corporation is a creature of the state; it is controlled by the state; expenses publicly incurred on its account are borne by the state. Universally, except in Massachusetts, the corporation tax—which is, after all, an excise tax—is given to the state. Here the greater part of it, with fine lack of logic, is returned to cities and towns, and in such an unscientific and inequitable manner that communities least able to bear taxation receive little or no relief, while communities best able to bear financial burdens are relieved largely of local taxation. . . The amount thus stripped from the state and inequitably distributed is just about equal to what we are now forced to raise by direct state tax. Governor after Governor has incurred local unpopularity in favored towns and cities, by calling attention to this gross injustice; but injustice it is, and for the third time I ask for its correction. Return the corporation tax to the state, and lift the direct state tax from the people.” Jan. 2, '08, p.22-25

### 810 Exemption from general property tax

*See also* under special classes of taxes

- a **La.** Blanchard. “In each parish of the state all property exempt from taxation should be listed on a separate roll, giving

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description of same, name of owner, reason why exempt, and cash value of each piece. The assessor in each parish and in each municipal district of the city of New Orleans should be required to do this each year, making affidavit to its correctness and filing the same with the Auditor at the time he files his assessment rolls." May 12, '08, p.76-77

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## Assessment

- a **Ga.** Smith. ". . . I desire to urge upon the Legislature the importance of abandoning our present crude plan of tax assessment and of giving to the state an intelligent system of tax equalization applicable to all the property in Georgia subject to taxation." June 24, '08, p.15-16
- b **Kan.** Hoch. "The aggregate amount paid for assessing property throughout the state for the year 1907 is in excess of \$172,000. It is submitted that this is too great a cost for this branch of the public service." Nov. 11, '07, p.14
- c **La.** Blanchard. "In my message to the General Assembly in 1906, I recommended, giving the reasons therefor, that the members of the State Board of Appraisers be elected, one from each congressional district, instead of otherwise, as now. It requires a constitutional amendment to do this. Such an amendment would have been adopted by the people if submitted. It was not submitted. I renew the recommendation." May 12, '08, p.5
- d **La.** Blanchard. "But without anticipating increases in the assessment aggregate, what we have now, I respectfully submit, justifies this General Assembly at this, its first session, to reduce state taxes one more mill—from five to four mills." May 12, '08, p.7-9
- e **N. J.** Stokes. Recommends placing assessors and boards of original valuation under civil service. Jan. 14, '08, p.31-32
- f **Okl.** Haskell. "I earnestly call your attention to the provision of the Constitution requiring all property to be valued at its market value. This I believe to be the only way to insure the large properties of the state paying their fair share of taxes as compared with smaller properties. . ." Dec. 2, '07
- g **S. C.** Ansel. "This [Assessment of Property] is the most difficult of all the questions with which you will have to deal. The Constitution of the state provides the correct rule, and if all property were assessed according to its provisions the tax levy would be less, and all property would be contributing its just proportion to the taxes of the state. . . All property should bear its just proportion of the taxes. The question arises, How is the Auditor to find out what personal property the taxpayer has? I suggest the inquisitorial plan. Require the county auditor to publicly administer to the taxpayer an oath requiring him to truly answer concerning all his property of whatsoever kind, and record it on his tax return with the valuation he places on same,

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which is to be afterwards equalized by the township and county boards of equalization. . . . The oath should be administered and the party fully interrogated as to his or her property and the property under his or her control, with the valuation thereof. When this is done publicly the neighbors who may be present will know whether the valuation is correct, and the "tax dodger" will be required to answer correctly or take the consequences."

Jan. 14, '08, p.5

- h W. Va.** Dawson. "The amendment of the sections of chapter 29 of the Code respecting the assessment of property for taxation by the Board of Public Works, is desirable for several reasons. One reason is that the present law does not give the board sufficient time to perform this important work satisfactorily; another reason is that the method of obtaining relief by the owners of property assessable by the board, when that property is in more than one county, is cumbersome and expensive in time and money. A bill for this purpose was before you at your last session, and I understand that the attorneys of the leading railroads approved of its provisions."

Jan. 28, '08, p.8

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### Personal property

- a La.** Blanchard. Assessment of stock in commercial exchanges on market instead of par value.

May 12, '08, p.25-26

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### Review. Equalization. Adjustment

For equalization by states *see also* 800

- a La.** Blanchard. "The law creating our State Board of Equalizers was taken largely from the Illinois statute. It is objectionable in that it goes into too much detail and blazes out rather a narrow way which the board is to follow in the execution of its duties and in the performance of the work committed to its hands.

It would have been better had the law stated the principles and broad policies to be observed in its execution, but otherwise left to the members of the board wide latitude in the manner of its execution and ample discretion to frame necessary rules and regulations, not inconsistent with the law, for carrying it into practical effect. I would recommend that in amending the law this be observed.

Unequal assessment can only be corrected by proper classification of property. The classification adopted by the board and the values as fixed by the board must be enforced throughout the state, else the board will have been created in vain. . . . The law is deficient in this respect and needs amendment. Provision should be made to enforce the rules and orders of the commission by establishing specific penalties against assessors and police jurors, sitting as members of boards of review, who fail to enforce them."

May 12, '08, p.14-18



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- b Miss. Noel. "Our state tax is collected upon the carrying standards of assessment adopted by 78 counties and the railroad commissioners, each wholly independent of the other. Instances exist where land of the same kind and value on one side of the county line, through higher assessment, pays four times as much state tax as other land just across that line. Some form of fair tax equalization by which individual and corporate property, regardless of location or kind, would be taxed according to actual value, can be devised, and is imperatively needed." Jan. 21, '08
- c N. J. Fort. "By an act approved on the 14th day of April, 1906, county boards for the equalization of taxes were created . . . The board in each county consists of three members. They are paid by the state, and their annual cost to the state is \$91,200, besides the expense to the counties. Such an expensive piece of governmental machinery should only be maintained if results beneficial to the state or the citizen flow from it. For myself, I have been unable to discern any advantage resulting to the state or the people from these boards. A study of the situation in the light of events seems to me to indicate the opposite result. The ostensible purpose for the creation of these boards was to procure the equalization of values. If this were the real reason, then the two years they have been established is a long enough time to accomplish this end, and their further existence is unnecessary . . . Provision, however, should be made for some board or body, with power to equalize, by simple methods of procedure, and at small expense, valuations between municipalities for the apportionment of county taxes. Probably this can be done through the State Board of Equalization of Taxes." Jan. 21, '08, p.9-11

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### Collection

- a Cal. Gillett. "This, together with the fact that for several months large sums have been withdrawn from the banks and hoarded, had greatly depleted the cash reserve which the banks usually carry, and with which the business of our state is carried on. The effect is that money can not be secured with which to pay the first instalment of taxes without reducing the reserves to such an extent as to seriously imperil our financial, commercial and industrial interests, thereby jeopardizing the business of the state. In fact, many who have depended upon the banks to supply money to pay taxes can not pay their taxes at all. Unless some relief is granted the delinquent list will be large, and many of our citizens will suffer a heavy penalty, and so much money will be taken out of circulation at a time when none can be spared as to threaten the very business prosperity of the people. This relief can come by enacting a law authorizing the Governor, during a great financial stringency, to issue a proclamation extending the payment of taxes for a short period of time. Such a bill will be

## TAXATION

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presented to you for your consideration, and I desire you to give it your most earnest attention." Nov. 19, '07, p.4-5

- b **La.** Blanchard. Recommends reduction of rate of commissions for collecting taxes or a change to the salary system.

Nov. 11, '07, p.4-13

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### Income tax

- a **Okl.** Haskell. Recommends taxation of "all incomes in excess of \$3000 per year." Dec. 2, '07

- b **U. S.** Roosevelt. ". . . A graduated income tax of the proper type would be a desirable feature of federal taxation, and it is to be hoped that one may be devised which the Supreme Court will declare constitutional. . . ." Dec. 3, '07, p.15

### 833 Business taxes. Revenue, license or privilege taxes

*See also 1532, Regulation and licensing of trades and occupations*

- a **Md.** Warfield. "[The State Auditor] points out the pernicious and growing tendency on the part of many small dealers carrying a stock less than \$1000 in value to take advantage of section 51, article 56, of the Code of Public General Laws, and secure a license in the name of a female, thus obtaining for \$6 that for which he would otherwise be obliged to pay \$12. . . He recommends either a repeal of the above law or, at least, its amendment by striking out the words 'or other small articles of merchandise,' so that these individuals who are using the cloak of a woman to defraud the state may be forced to secure the proper license. I heartily concur in this recommendation and urge prompt action upon your part to protect the state's revenue." Jan. 1, '08, p.19-20
- b **N. J.** Stokes. Schedule of assets and liabilities filed, a basis for the levying of the franchise tax. Jan. 14, '08, p.41

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### Tax on deeds and contracts. Fees

- a **La.** Blanchard. "The New York system of taxing mortgages is, I think, far preferable and I commend it to your consideration. The mortgage tax law of that state, enacted in 1905, repealed the property tax on mortgages, and replaced it with a recording tax of 50 cents on the \$1000, one half of the receipts from which go to the county in which the tax was paid, the remainder to the state . . . This tax is collected when the mortgage is recorded and the mortgage is not to be recorded until the tax is paid. The tax is paid once for all. If the mortgage exists longer than the year the collection of the tax is not repeated. Besides New York, this system of taxing mortgages to the exclusion of other methods has been adopted by Alabama, Virginia and Minnesota. I advise, therefore, that mortgages be relieved of the existing tax, and there be no tax imposed upon the same beyond the registry tax, not

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exceeding \$1 upon the \$1000, to be collected at the time of the recording of the act of mortgage, same to be paid by the money lender and accounted for monthly by the clerk of court, or recorder of mortgages, to the State Treasurer and covered into the Treasury to the credit of the general fund."

May 12, '08, p.26-27

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## Inheritance taxes

- a **La.** Blanchard. "In 1906 I recommended the elimination of article 236 from the present Constitution. I now renew it. This article well nigh emasculates the inheritance tax authorized by the preceding article. The inheritance tax rests upon an entirely different principle from that of the ad valorem tax upon property, and its wisdom and policy is attested by the concurrent judgment of the most enlightened countries of the world." May 12, '08, p.81
- b **Md.** Warfield. "In this state there is now a collateral inheritance tax of two and a half per cent ( $2\frac{1}{2}\%$ ). The yield from this source in 1907 after the deduction of 25% commissions, was \$133,228.74. You should increase this rate to 5% and reduce the commissions to 10% — even though you do not accept my recommendation as to a tax on direct inheritances. The tax upon direct inheritances should not be imposed upon estates under \$20,000, but should be a graduated one on estates above that amount, the rate being increased in proportion as the size of the estate increases." Jan. 1, '08, p.20-21
- c **Okl.** Haskell. Recommends taxation of "all inheritances in excess of \$10,000." Dec. 2, '07
- d **U. S.** Roosevelt. ". . . There is no reason why in the United States the national government should not impose inheritance taxes in addition to those imposed by the states, and when we last had an inheritance tax about one half of the states levied such taxes concurrently with the national government, making a combined maximum rate, in some cases as high as 25%. . . The tax should if possible be made to bear more heavily upon those residing without the country than within it. A heavy progressive tax upon a very large fortune is in no way such a tax upon thrift or industry as a like tax would be on a small fortune. . . ." Dec. 3, '07, p.16

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## Corporation taxes

Including taxation by general property tax

- a **La.** Blanchard. "Our present method of taxing railroads and other public service corporations is all wrong and should be changed.  
Article 242 of the Constitution gives the power to license and tax corporations organized or domiciled out of the state, but doing business in the state, by a mode different from that by which home corporations are taxed, provided such different mode of



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taxation be equal and uniform as to all corporations doing the same kind of business. This undoubtedly gives the Legislature the authority to change the manner of taxing foreign corporations from the ad valorem method to some other method. But it does not confer the power to do this as to domestic corporations. Now, the contributions which all public service corporations are required to make to government, should be arrived at by a franchise tax calculated upon gross earnings. This I find supported by the best thought of modern times and by its adoption by the most progressive states of the Union, with one or two exceptions."

May 12, '08, p.24-25

- a Mich. Warner. "The commissioners wisely conclude that no overtaxed. When you tax corporations, the burden falls upon the individual stockholder. If corporations are too heavily burdened by taxation their ability to pay dividends and adequate salaries and wages to the employees is seriously affected. This is the case with a number of corporations in this state. The shareholders embrace a large number of citizens of the state; thus the people are directly affected and not the so called heartless corporation, and the tax becomes a personal burden and not a corporate burden. Corporations are necessary for the proper development of every community. Therefore, they should be encouraged and not unfairly and unnecessarily hampered by unjust taxation and restrictions."

Jan. 1, '08, p.17

## 845 Transportation and transmission corporations

*See also 1200, Transportation*

- a Mich. Warner. "The commissioners wisely conclude that no such possibility was intended by the framers of our statute on this subject. I heartily concur in the suggestion of the commissioners that the law be amended so as to provide for ascertaining the exact relation which oceanic traffic bears to that conducted by rail, giving the assessing board discretion to determine what weight should be given to earnings on water routes in fixing the valuation of the property of express companies in this state for taxation purposes, and thus secure to the state that just proportion of taxes from such companies which is its due."

Oct. 10, '07, S. J. p.24

- b Mich. Warner. "I would also recommend legislation relative to the taxation of car loaning and other companies owning, leasing, running or operating any cars not the property of railroad companies. This should be done in such a way as to make these companies bear their just proportion of taxation."

Oct. 10, '07, S. J. p.24

- c Mich. Warner. "Justice to all our people demands that a change be made in the method of taxing certain classes of prop-

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erty in this state. These classes of property are now specially favored by being taxed under a different system than the property of other citizens and corporations. I have reference to the property of telegraph and telephone companies which now pays a specific tax based upon earnings. This system of taxation was at one time quite generally adhered to in taxing the property of corporations in Michigan. In recent years, however, it has become the policy of the state to tax the property of corporations as other property is taxed. . . I earnestly recommend the enactment of a law providing for the assessment and taxation of the property of telegraph and telephone companies by the ad valorem system and for the payment by such companies of the average rate of taxation paid by the other property of the state."

Oct 10, '07, S. J. p.25

- d N. J. Fort. ". . . I suggest, in view of the claim frequently made that railway property in this state is assessed above its true value (and the counter contention and belief of many that it is assessed below its true value) that authority be given to appoint two competent and eminent experts in the valuation of such property, to make an inventory and appraisal of **all the fixed railway property** in this state for the information of the State Board of Assessors, the State Board of Taxation, the Legislature, and the people. Since establishing our present method of taxation of railway property in 1884, no such valuation has been made."

Jan. 21, '08, p.11

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## Budget

*See also 2575, Local finance*

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### Appropriation. Limit of expenditure

- a Md. Warfield. "It would be better if the laws creating these continuing appropriations were repealed and all appropriations made annually in the regular appropriation bill. The Legislature and the public would then know the exact cost of administrative affairs, and each item and the merits of each appropriation would then come up for discussion and revision biennially."

Jan. 1, '08, p.13-14

- b S. C. Ansel. "It is very evident to every thinking business man that if an appropriation is made the tax levy should be sufficient to meet the same."

Jan. 14, '08, p.4

## 853 Accounts. Methods generally. Collection of moneys. Warrants

*See also 2575, Local finance*

- a La. Blanchard. "I recommend to you a careful inquiry into the whole present system of safeguarding the collection and disbursement of the public funds, and urge that the same be so



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amended, or reorganized, as to give the people full protection against dishonest collectors and handlers of the public funds. And, in this connection, I recommend that features of the new or amended system be an increase in the amount of the official bonds of the collectors, and the creation of the office of special agent of the Auditor's office, or traveling auditor." Nov. 11, '07, p.21-22

b Md. Warfield. "He [State Auditor] recommends the establishment by the state of a more comprehensive system of keeping the fee accounts in books furnished and owned by the state. In this I also concur." Jan. 1, '08, p.20

c N. J. Stokes. "I suggest, therefore, that for these two measures [chapter 288, laws of 1907, relative to receipts and disbursements of public moneys, and chapter 277, laws of 1907, relative to expenditures by state institutions], a general act be substituted embodying these principles:

1st: That all receipts be turned into the State Treasury.

2d: That all disbursements be made by the Treasurer and Comptroller, or through detailed monthly requisitions upon the Comptroller.

3d: That bids be required for the erection of buildings except for the work that is to be done by the inmates of the institution, and also for supplies furnished amounting to over \$1000, and that under that amount the question of bids be left to the discretion of the Comptroller.

4th: That the Governor, Comptroller and Treasurer be authorized to make rules governing the expenditure of small sums by the institutions for immediate necessities, and that appropriations be made by the Legislature to be used under these regulations, and that the Governor, Comptroller and Treasurer be authorized to take action in cases of fire, damage or other emergency.

Such a measure as this would safeguard the receipts and expenditures of the state and make them matters of record in the offices of the Comptroller and Treasurer, at the same time affording sufficient flexibility of action necessary in the management of state institutions." Jan. 14, '08, p.42-45

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#### Collection of state claims and revenue

a S. C. Ansel. ". . . We are one year behind in the assessment and collection of our taxes, or rather we collect the taxes at the end of the year for the expenses of the state government for the year past, when we should have the taxes in hand at the beginning of the year to pay the obligations of the state as they mature. This condition of things frequently makes it necessary for the state to borrow money before the taxes are collected to pay the running expenses of the state government and the appropriations made by the General Assembly. . . These conditions are likely to continue year after year unless provision is made to catch up. I, therefore, recommend that at least an extra two mill tax for



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state purposes be provided for at this session of the Legislature, the same to be done for the next two years, when we will have in the state treasury money sufficient to place us where we will not be required to borrow, but 'can pay as we go.'"

Jan. 14, '08, p.3-4

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#### Claims against state

- a N. Y. Hughes. "I recommend. . . the amendment of the law relating to the Court of Claims so as to provide for the enlargement of its jurisdiction in an appropriate manner. A bill for this purpose was passed at the regular session and after careful consideration of its provisions I was unable to approve it, having reached the conclusion that it conflicted with article VII, section 6, of the Constitution limiting the claims which can be allowed by the Legislature. It is of great importance that we should have a general statute enlarging the jurisdiction of the Court of Claims, thus providing for meritorious claims which come within the policy of such a general law, and putting an end to the practice of seeking this result by the passage of special bills in aid of particular cases."

May 27, '08

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#### Examination and audit

- a Ky. Willson. "I also commend to you the enactment of a law requiring that all books, vouchers and accounts of all municipalities, public officers and public institutions supported by the state, counties or cities, and all corporations in which a city, county or state owns an interest, either directly or through subordinate corporations, trustees, or commissioners, shall be open to inspection and investigation at all times by any citizen, and shall be regulated, audited and the results published by an independent accountant, who shall not be eligible to examine such books, vouchers or accounts twice in succession."
- Jan. 7, '08, p.16-17
- b La. Blanchard. "The State Auditor should be required and given power to institute modern methods and a uniform system of bookkeeping and accounting in all offices handling the state revenues, so that each officer of the same class throughout the state will use the same system. He can do this through the traveling auditor."
- May 12, '08, p.73-74
- c N. J. Stokes. Renews recommendation for permanent commission to examine affairs of state departments and institutions, counties and municipalities.
- Jan. 14, '08, p.45-49
- d N. J. Stokes. "A number of the statutes impose upon the Governor the duty of approving bills before they can be paid. . . The Legislature has provided the Governor with no agencies to ascertain the correctness of these bills, whether the services have been rendered or the supplies furnished. They are by law authorized by other bodies or boards or commissions, and not by the Executive. He has no knowledge of their accuracy except the affidavit or affidavits of some person or persons indorsed thereon

or attached thereto. In case of any irregularity in these bills, the Governor's approval thereon could be easily misconstrued. I have refrained from calling attention to this condition of affairs until the close of my term, but I can speak for the convenience of my successor where I could not speak for myself. All bills should be audited in the Comptroller's department, and I recommend that an act be passed relieving the Governor of this annoying and, to him, utterly unsatisfactory and impracticable duty."

Jan. 14, '08, p. 50-51

- e **N. J. Fort.** "The state needs an accountant department of the most efficient kind. There should be a uniform system of book-keeping in all the state departments and institutions, and all accounts should be thoroughly examined and audited. The fee system has been abolished in the state, and yet, at no time, has there been an audit or verification of any of the reports of county or state officials, so far as I know, by any competent accountant, to see that the state fees returned are correct, or that all the judicial or other fees to which the state is entitled, have been actually collected. In addition to this, all the state institutions should be subject to quarterly, certainly semiannual, examinations as to their financial affairs. It is the state's money they expend. For what it is expended they should be examined, and a close watch kept by competent examiners, with reports to the Governor of any expenditure not found to be within the law. In addition to this, no expenditure of any state institution or department should be made unless duplicate bills for the same are sent to the board of audit, that check and countercheck may be kept upon all expenditures, and against all appropriations and treasury payments. In some of the state reports appears a certificate of an auditing committee of the board, but its membership, in each case, is made up of those who have had to do with the incurring of the expenditure of the funds, the vouchers for which it is auditing."

Jan. 21, '08, p.8

- f **P. R. Post.** "More power should be given to the Auditor to make examination and prescribe the method under which the moneys paid to the government shall be received and accounted for. This would relieve the heads of departments of a serious responsibility, and make for a more uniform system of accounting and greater protection to the government. Frequent examinations should be made by the Auditor's office of the accounts of all officers authorized to receive moneys." Jan. 14, '08, p.38-39

- g **W. Va. Dawson.** ". . . [It is the duty of the Legislature] to pass an act to provide for the supervision of public offices and institutions and to establish a uniform system of public accounting." Jan. 28, '08, p.6

### Financial officers

- a **Ga. Smith.** ". . . I recommend that the Legislature consider the advisability of constitutional amendments giving to the State



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Treasurer and Comptroller General adequate salaries and forces sufficient to do the work of their respective offices. . . ."

June 24, '08, p.21-22

- b Md. Warfield. ". . . I recommend that a constitutional amendment be proposed increasing the term of the Comptroller and Treasurer each to four years and making the Treasurer an elective office." Jan. 1, '08, p.18-19

861

#### Funds. Investments

- a Md. Warfield. ". . . A sinking fund of \$268,000 annually until 1914 and of \$70,000 from 1914 to 1919 will be necessary to extinguish this indebtedness of the state as it matures. . . . A special act should be passed setting aside annually out of said revenues this amount and making it a prior lien on said receipts or revenues, thus keeping inviolate the constitutional provision in regard to sinking funds. I favor the sale of the \$1,500,000 mortgage on the Northern Central Railroad whenever an adequate price can be obtained for it, the proceeds to be used to liquidate the above mentioned debt. . . . The state, in my judgment, has no right to take money from taxpayers for the payment of her debts when she has securities in her treasury as investments that can be disposed of at fair prices and for enough to pay her indebtedness; and I hold the further opinion that the state should not own stock in banks or corporations, thus assuming a stockholder's liability and becoming a partner in business ventures." Jan. 1, '08, p.15-16

864

#### Warrants. Checks

- a Okl. Haskell. "I recommend that a proper emergency act be passed, where the Constitution does not already cover the subject, authorizing purchase by the state from any available fund, of state, county or district bonds or warrants to such extent as may be necessary to enable the conducting of public business on a cash basis until tax collections may enable the conduct of public business without doing a miscellaneous warrant business and the debts contracted prior to the organization of new counties, townships, or school districts, shall not be afterward ratified or paid except upon examination and approval by the district court." Dec. 2, '07

868

#### Deposits and depositories

- a Ill. Deneen. "In this connection I would also mention the related subject of interest on public funds. Already the system of requiring payment of interest on public funds obtains in many states, being the practice in New York, Pennsylvania, Florida, Virginia, North Dakota, Georgia, Missouri, Rhode Island, Ohio, New Jersey, Connecticut, Wisconsin, Michigan, Maine and Massachusetts. In these states interest was received on deposits of public funds varying in amounts from, New York \$87,288.84 for 1906, Pennsylvania \$79,005.58 for 1905, Missouri \$77,266.97 for 1906, to



\$3,622.18 in 1906 for Rhode Island. In our own state, for the period of nine months ending September 30, 1907, the present State Treasurer, Hon. John F. Smulski, has voluntarily turned into the treasury the sum of \$70,009.94. The substantial gain to the state from this voluntary practice of the present State Treasurer strongly suggests the propriety of the enactment of a law making it obligatory upon treasurers of state hereafter elected to turn the interest received on deposits of public funds into the state treasury. I believe that no good reason can be assigned why the state should be deprived of this source of income. As this is a matter upon which there can be little difference of opinion, and as it is manifestly to the interest and advantage of the state that you give it your early attention, I urge that you enact the necessary legislation at your present session.” Oct. 8, '07, p.7-8

- b **La. Blanchard.** “I respectfully recommend that you enact legislation directing that the public funds be placed on deposit in the solvent bank or banks within the state offering the highest compensation for such deposits, and that the act you pass make provision for properly safeguarding the public interests by requiring such banks to deposit as security in the state treasury bonds of the state, or those of any political subdivision of the state (provided that the bonds of political subdivisions offered command par or more in the open market) equal in amount to the amount of funds placed on deposit with such bank or banks. This is the system of security adopted by the federal treasury, or rather the government of the United States, when it places government funds in national banks. Also by some of the states of the Union — New York among them. If a bank with public funds fails, its failure does not affect the government or the state. All the government or the state has to do is to withdraw the bonds from the treasury, sell same and reimburse itself. . . In considering this matter, it might be well to weigh the reasons that may be behind, or the merit that may be involved, in the suggestion I have seen made that the funds of the state, for the purpose of competition among banks that desire to secure the deposits, be divided among the congressional districts — the state funds collected in the parishes of each district to be kept separate, and subject to be competed for only by the banks in such district. What is said in this chapter of the message about letting out the state's funds to the highest bidder among the banks applies with equal force to parish and municipal funds, school funds, levee and drainage funds, and to funds appropriated for the state institutions and drawn out of the state treasury, but not immediately expended.” Nov. 11, '07, p.24-26

- c **Miss. Noel.** “Establishment of depositories for public funds, allotted through fair competitive bidding, would increase the demand and value for state, county, levee and municipal securities; would lessen the contraction of currency at times of our greatest need; and would lower taxes by getting interest on deposits and dispensing with needless offices.” Jan. 21, '08

870

## Public order

*See also 234, Crimes and offenses*

872

## Police

874

### State and county police

a Nev. Sparks. "It is apparent that a law should be enacted regulating the police power of the state, either on military lines or on enlarged civil power vested in the state government, that will be equal to the protection of the rights of all the people and maintain the honor and dignity of a sovereign commonwealth, which Nevada has a right to claim and enforce. This will be expensive, but with ordinary economy may be gradually accomplished. The necessary appropriation should be made to inaugurate whatever system may be adopted." Jan. 14, '08, p.4

b P. R. Post. "I strongly urge that the police commission, and the Governor, be given greater latitude in regard to the districting and the locating of the force [insular police] in the island, and in remodeling the force more in conformity with the organizations of police in the United States. The commission should be authorized to designate a distinctive uniform for the various branches of the force, which should not resemble any uniform or liveries now in use on the island, and when so designated it should be unlawful for any person or organization to use the same or a similar uniform. All, or at least a part, of the cost of the uniforms and equipment should be paid by the government, and all accounts which may be incurred by policemen for the purchase of supplies necessary to their position should be under government supervision and rigidly audited. I recommend that a greater number of policemen be mounted for patrol work in rural districts. . . . The police stations in almost all the towns are in rented buildings, and rents are continually being raised, in some cases exorbitantly. It would be advisable to construct or purchase quarters for the police, when it can be done to the advantage of the government. Provision must be made for new armament for the force."

Jan. 14, '08, p.48-49

877

### Miscellaneous police regulations

*See also 264, Crimes against public morals and the family; 1065, Nuisances; 2722, Roads*

879

## Amusements

Relating chiefly to restricted amusements

887

### *Poolselling. Bookmaking etc.*

a La. Blanchard. Suppression of race track gambling.

May 12, '08, p.61

b N. Y. Hughes. "As amended in 1895, the Constitution (article 1, section 9) provides:



‘Nor shall any lottery or the sale of lottery tickets, poolselling, bookmaking, or any other kind of gambling hereafter be authorized or allowed within this state; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.’

Following the adoption of this provision the Legislature in 1895 amended the Penal Code (section 351) so as to make it a felony to engage in poolselling or bookmaking at any time or place, or to record bets or to keep or occupy any place or stand for such purpose. It made an exception, however, of cases where an exclusive penalty was otherwise provided. At the same time, by the so called racing law (laws of 1895, chapter 570, sections 17-18) a different and exclusive penalty was provided for bookmaking and poolselling on authorized race tracks, provided no memorandum or token of the bet was delivered. This exclusive penalty consists of the forfeiture of the amount wagered, to be recovered in a civil action.

In writing for the Court of Appeals with reference to the construction of these sections of the racing law, Chief Judge Cullen said (*People v. Stedeker*, 175 N. Y. on page 64):

‘It will thus be seen that the effect of these two sections is to relieve any person who either makes or records a bet, wager or pool upon the race course from any liability to punishment except the recovery by the other party of the money bet or deposited. There is but one qualification on this exemption, that no record or registry of the bet shall be delivered to the other party or to some third person for him. In other words, the question whether the offender is a felon or not depends upon whether he delivers what I may term a voucher or evidence of the bet to the other party. If he abstains from this he may bet, wager and sell pools on the races and record and register the same free from other liability than the civil penalty. . .’

The constitutionality of this discrimination has been upheld by the Court of Appeals upon the ground that in carrying out the provisions of the Constitution it was in the discretion of the Legislature to fix the penalty and that in the cases specified the Legislature could make the penalty simply a forfeiture of the bet, to be recovered in a civil action. The question for the court was simply one of legislative power.

A different question, however, is presented to the Legislature in the exercise of its discretion, and that is the question of legislative policy and of a substantial, and not a mere technical, compliance with the explicit constitutional provision. The Constitution makes it the duty of the Legislature to enact appropriate laws to prevent poolselling, bookmaking, and other kinds of gambling. Experience has shown that the laws enacted have not accomplished the purpose which the Constitution defines. The evils and demoralizing influences, and it may be added, the economic waste, at



which the Constitution aimed, exist under the law and in fact are stimulated and increased through its provisions. The discrimination in penalties now existing rests on no distinction that is justified to the popular mind. Public sentiment is against such arbitrary distinctions, with the result that the laws against gambling outside of race tracks have been defied, and the administration of the law has been brought into contempt.

The Constitution makes no exception of race tracks. I recommend that the Legislature carry out the clear direction of the people without discrimination. In connection with the repeal of the existing exception, I recommend that the offenses described in section 351 of the Penal Code should be punished by imprisonment and that the alternative of fines should be abolished.

The racing law provides for a tax of 5% upon the gross receipts at trotting and running race meetings which under the agricultural law becomes part of a fund for distribution each year among various agricultural societies in prescribed proportions. In order that there may be no diminution of the support upon which these societies largely rely, appropriations may be made for their benefit to the extent necessary to secure to them amounts substantially equivalent to the sums they hitherto have received. It is better that they should be supported directly than that the state should derive a revenue for this purpose through an indefensible partiality in the enforcement of the fundamental law." Jan. 1, '08, p. 16-18

- c N. Y. Hughes. "I again urge you to enact appropriate legislation to abolish the existing discriminations in favor of race track gambling. . .

The evil of race track gambling flourishes not in spite of the law, but because of the law. Legislation pretending to carry out the constitutional provision in effect nullifies it. You are not asked to accomplish the impossible, or to write upon the statute books a visionary scheme of moral reform. You are asked to rid our law of a vicious discrimination whereby offenses equally condemned by the Constitution are punished as crimes if committed in one place, and are encouraged by the absence of suitable penalty if committed in another. . .

Respect for law is the security of our government and the guaranties of the rights of liberty and property will not long avail if the people are taught to view the Constitution with contempt. I therefore urge you to discharge a manifest duty and to end the discriminations in favor of race track gambling which cupidity inspired and now seeks to maintain." Apr. 9, '08, p. 1-3

### Intoxicating liquors. Narcotics

- a Ky. Willson. ". . . It is for the General Assembly to act upon these recommendations as in their wisdom they shall deem best, and to extend the local option law and make it apply to all

counties with the county as the governing unit. In all such matters, the majority should rule, just the same in a large and populous county, or a county having a large city, as in a county which is small, or has no city. . . . I have not given my assent to the belief that we can wisely yield to a demand for the immediate extinction and destruction of all the great sums of money invested in the manufacture and sale of spirits, or throwing all who are interested or engaged in such business out of work; but I do insist and urge upon you to take thorough, practical measures to decrease the amount of our investments and the number of those interested or employed in these lines and turn them to other fields. I ask your consideration of the suggestion of excise boards for cities of the first, second and third classes, with graded licenses and rigid laws to put an end to saloon influence in politics."

Jan. 7, '08, p.17

b **La.** Blanchard. "The liquor traffic and open saloon should be subjected to the strictest surveillance and regulation, and if these fail should be prohibited altogether." May 12, '08, p.61

c **N. J.** Fort. "The excise laws can never be properly enforced until the local officials do their duty. To accomplish this they must be held to strict accountability for the nonenforcement of the law. To this end, therefore, several acts of legislation are essential:

1st: A more simple and effective provision for the revocation of a license by the granting power in case of the violation of the excise laws in any respect.

2d: An act making a revocation of a license result upon a conviction of the violation of the excise laws, or upon a plea of guilty or *non vult*.

3d: An act conferring upon the Governor the power to remove any mayor who fails to take measures to enforce excise laws within his municipality. Such removal, of course, to be only after notice, requiring such enforcement, and after charges, trial and hearing.

Further excise legislation should be enacted in the following respects:

1 A general statute should be passed which will increase the present minimum license fee in all places, for the sale of intoxicants; and,

2 In cities of the first class the minimum should be at least \$600. One thousand would be better; and in lesser cities and towns, in proportion.

3 The number of saloons should be limited on some basis of population.

4 No more than one, or two saloons at most, should be allowed to be located upon any city block.

5 Fix a closing hour for saloons and bars for each night, say at 12.30 a. m., after which no bar can be open until say 6.00 a. m.

6 All right to transfer a license should be abolished.

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7 Establish a state board for the revocation of licenses, with power, upon the petition of any citizen, to revoke any license for a violation of the excise laws, this board to be required to sit in different parts of the state at stated times.

8 Pass a supplement to the evidence act providing that where proof shall be had that any liquid drink was sold or delivered in any saloon, or at any bar, on any prohibited day, it should be presumed to be intoxicating liquor, and in any trial upon an indictment or any other proceeding, the burden of proof that such liquor so sold was not intoxicating should be upon the defendant.

9 No person or corporation engaged in the sale of malt or spiritous liquors should be allowed to establish a saloon in some other person's name or to furnish money for that purpose. Agreements, leases or mortgages, hereafter made, for such a purpose, or to secure money for such a purpose, should be deemed absolutely void; nor should any agreement be lawful which obligates any person to take, buy or sell, only the product or output, or beer or other malt or spirituous liquor, of any other person or corporation in or at any licensed place or business."

Jan. 21, '08, p. 19-20

902

### Prohibition

a **Ga.** Smith. "While I neither opposed or advocated the passage of the state prohibition bill, still I believe a majority of the white voters of the state approved your action in passing this bill. It should now be given a fair trial and I recommend that no effort be made by you to change it except to perfect it as a prohibition measure." June 24, '08, p.3

b **Kan.** Hoch. ". . . The law [prohibiting traffic in liquor] was never so well enforced as it is today. Experience, however, has demonstrated the need of a few additional provisions of law on the subject, and these will be submitted to you in a bill carefully prepared by the legal department of the state, which I hope you will promptly enact into law." Jan. 16, '08, p.11-12

c **W. Va.** Dawson. "It is understood that an amendment will be introduced prohibiting the manufacture and sale, as beverages, of intoxicating liquors. I do not believe this is the best way to deal with the evils of the traffic in intoxicating liquors, preferring a strict and stringent local option measure, which is prohibition where public sentiment will sustain it. However, if in the judgment of the Legislature a sufficient number of the voters of the state desire submission to the people of such an amendment I should say it ought to be submitted." Jan. 28, '08, p.10

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### Dispensaries

a **S. C.** Ansel. ". . . I recommend that not more than one county dispensary be allowed in any county where liquor is allowed to be sold, except in those counties where there are cities with a



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population exceeding 25,000. . . In two of these counties — Kershaw and Chesterfield — it appeared that a majority of the votes cast were in favor of 'no sale.' In Kershaw the election was declared illegal, while in Chesterfield the matter of the legality of the election is now pending in the courts, but the dispensaries are still doing business in this county. Owing to this condition of affairs, and other reasons I might give, I recommend that the said act be further amended by providing that when an election is held in any county under this act, and the returns show that a majority of the voters cast their ballots to prohibit the sale in said county, that the dispensaries be immediately closed and kept closed until the matter is finally determined by the county board of canvassers, the State Board of Canvassers, or by the courts, if resort be had to the courts."

Jan. 14, '08, p.6-7

904

*Local option*

- a Ind. Hanly. "The welfare of the state, viewed from either a moral or an economical standpoint, requires the enactment of a law giving to the qualified voters of the respective counties of the state the right to vote upon the question of the exclusion of the liquor traffic from any such county. In my judgment it is both expedient and right that this legislation be enacted now. . . Two methods are suggested. One, a township and ward election, where the people of the township or ward may vote for or against the traffic. The other, a county election, where the people of each county may vote for or against it. Between these two propositions both the temperance people and the liquor interests of the state have made a quick and decisive choice. The first method would add nothing to the present statute. The unit would be precisely the same as that covered by the present remonstrance law. It would not be a step for the further restriction of the traffic, but a step toward the weakening of the present restraint. In practice, it would greatly impair if not effectually destroy the remonstrance law. Operating over the same territorial unit, conflict would ensue and the remonstrance law would be supplanted. The township or ward covers too small a territory to be an effective unit. No township or city ward can single handed protect itself from the ravages and evils of the traffic so long as it is permitted in the townships and wards surrounding it. A great majority of the citizens of a county or a city may be opposed to the traffic, but while a single township or city ward favors it, though by a majority of but one legal voter, the county or the city must tolerate it, must suffer in silence without redress, denied a voice or even a hearing concerning it. Thus the will of the people is made ineffectual, their purpose impotent. A city ward or township is not a substantial governmental unit. They have no officers qualified or empowered to enforce the laws of the state relating to the traffic. The expense of criminal prosecutions for crimes committed in the township or ward is not borne by such

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township or ward alone, but by the county as a whole. The evil effects of the traffic can not be confined to their boundaries, but reach all the people of the county. Township or ward local option by election is a kind of home rule but little better than that which would follow if the unit were a precinct, a city block, a single flat in a city, or the house of a single family. Carried to its last analysis, it localizes the option to the individual conscience of each citizen, and takes away all right of society, as represented in the majority, to have a voice in the matter. It is not government by majority, but government by the minority. It is not the rule of the people, but the rule of the few. Therefore I recommend to you and urge upon your favorable consideration the enactment of a local option law with the county as a unit, giving to the people the right to vote by counties upon the question, and so drawn as to preserve the present remonstrance law. . . .”

Sept. 18, '08

- b O. Harris. “The temperance sentiment of the people of the state has passed on to another stage and a large number of citizens are requesting that the voters of the counties be given the privilege of determining for themselves whether they will look to the traffic in intoxicating liquors for a part of the revenue to pay the expenses of the state and local government, or whether they will meet such expenses by direct taxation. This question is so important that I respectfully request that you give it your favorable consideration.”

Jan. 6, '08, p.34

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## Intoxication. Inebriates

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## *Institutions. Treatment*

- a Mass. Guild. “. . . : The insane and the intemperate should never be confused nor treated together, as they are at present. . . . The laws governing the treatment of those afflicted with habits of intoxication should be radically changed. At present the precise treatment of intemperate persons is determined, in the absence of any law of classification, by the personal opinion of the different judges. Some general classification, based among other things on the age and the number of offenses of the person in question, should be made. The institutions of Massachusetts should be graded in a progressive order for the proper care and control of this curse at different stages of its development. . . . It is wholly illogical to support a hospital for the cure of the drug or alcohol habit in men, and to provide no similar institution for the cure of the same habits in women. Experience has shown that the sexes are best treated separately and in distinct institutions. Let us reorganize the laws covering the public offense of drunkenness. Let us systematize the institutions where those suffering from drunkenness must of necessity be confined, but let Massachusetts lead the way in the recognition that this offense



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against decent living is not so much a crime that must be punished as a mania that must be cured." Jan. 2, '08, p.33-34

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### Opium, cocaine etc.

- a Ala. Comer. "A growing evil demands that the sale of morphine and cocaine should be more strictly regulated by law, and I suggest remedial legislation looking to this end."

Nov. 7, '07, p.4

930

## Public health and safety

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### General supervision

*See also 2160, Sick and disabled*

- a La. Blanchard. "With regard to the matter of legislation needed to improve the State Health Service the following suggestions are made:

1st: That the act providing for parish and municipal boards of health be amended so as to do away with the boards for parishes and towns of less than 5000 inhabitants, and in lieu thereof to have a health officer, who should be selected by the police jury or municipal council and commissioned by the State Board of Health as a member of the State Health Service and removable by the State Board of Health for neglect of duty or incompetency. To such a health officer should be given authority to appoint a sanitary officer whenever the presence of any contagious or infectious disease requires the service of such officer. . .

2d: Amend the vital statistics act, which seems impossible of enforcement, so as to make the failure on the part of a physician or midwife to report births and deaths punishable by fine for the first offense and by revoking their licenses to practise for the second. In many of the states this authority to fine and revoke licenses is given directly to the State Board of Health and has been found to work efficiently. . . It is believed that one or two prosecutions under the act amended as proposed would remove the trouble in collecting vital statistics.

An appropriation of not less than \$35,000 annually, added to the present revenue of the State Board of Health, would enable the board to carry out its present policy and greatly extend the scope of its service."

May 12, '08, p. 41-42

- b Md. Warfield. "The appropriations for the State Board of Health are included under nine distinct acts. The appropriation clauses of these acts should be repealed and a lump sum appropriated to be applied to the execution of the several laws falling under the administration of the State Board of Health. . ."

Jan. 1, '08, p.43

- c N. J. Stokes. "Public health is a broad term under which many duties can be classed. Inspection of cattle, cleanliness of dairies, purity of milk, purification of rivers and streams, the sani-



tary condition of our cities, our streets and our homes, are matters that affect the health of our people. These duties are now performed by different boards, whose functions are so interwoven that they could be easily grouped under one department. . .

I recommend the passage of an act merging all matters affecting the public health into a single health department with broad and comprehensive powers, and with the necessary means to enforce them." Jan. 14, '08, p.35-36

- d **P. R.** Post. "The most important matter before this session is the protection of public health. There is practically no definite sanitary system in existence, as the powers and duties pertaining to public health are divided between the local and insular authorities, and in no case is the division of responsibility clearly defined."

Jan. 14, '08, p.44-45

- e **S. C.** Ansel. ". . . I recommend . . . the appointment of a State Health Officer, who shall give all of his attention to this work."

Jan. 14, '08, p.12-13

- f **Va.** Swanson. ". . . I wish earnestly to urge you to enact proper legislation and to provide sufficient funds to form in this state an efficient board of health suited to our needs and present conditions. This can be accomplished only by conferring on the board full powers and providing it with ample appropriations. It should be given authority to require the registration of deaths; to prevent the pollution of all streams and drinking water; to restrict and prevent the spread of dangerous communicable diseases; to inspect and approve the plans and specifications for the construction of our public school buildings in so far as sanitary matters are concerned and to correct the unsafe and unsanitary condition of those already erected. It should be provided with funds to enable it to fight, and to aid in the extermination of, tuberculosis, the greatest scourge of modern life. It should be authorized and enabled to employ competent persons to teach the people sanitation and the prevention of disease and to instruct the teachers in the laws of hygiene and thus enable them properly to care for the health of their pupils."

Jan. 8, '08, p.9

## Vital statistics

*See also 474, Family*

- a **La.** Blanchard. "The lack of vital statistics is working such great injury to the state that there should be no hesitation in passing effective and even drastic measures to enforce the report of births and deaths, etc. There is evidence every day of discrimination against citizens of Louisiana in the matter of life insurance. This works great hardship, especially upon the poorer classes who take out small policies in the fraternal orders. Many of the parishes of the state are on the black list in these fraternal orders, making it impossible for their citizens to obtain life insur-

ance. The State Health Office has many applications from people in the Northern and Western States for vital statistics. These people are home seekers and are the very class of people which Louisiana desires to come within her borders to build homes. Letters in reply have been written by the State Health Office, telling these people that Louisiana does not deserve the reputation for unhealthfulness which she has abroad. But these letters do not take the place of reports on vital statistics. . ."

May 12, '08, p.41-42

- b O. Harris. "Ohio has no system worthy of the name for recording births and deaths. According to the Secretary of State, to whom returns of deaths are made, not more than 60% of deaths in Ohio are recorded, and no record of births is made by the state as such. Many matters of high importance to the state are related to the ages of her citizens. School attendance, the age of consent, factory employment, marriage, the franchise, military duty—all hinge upon the question of age. Ohio is far behind most of the other states in this respect, and the necessary machinery to insure thorough and accurate records of all births and deaths occurring throughout the state should be provided without further delay."

Jan. 6, '08, p.38

## 956 Adulteration. Inspection of articles liable to affect public health

*See also 1466, Adulterations and imitations*

- a Md. Warfield. "The annual appropriation for food and drink is \$2500. This amount is not sufficient to secure a pure and wholesome food supply, and it has been necessary to limit the work of the board [State Board of Health] in this respect largely to examining milk and water, and the inspection of beef as far as practicable. The board reports that its work is probably now arrested as far as expansion is concerned, and it is necessary to exercise great caution in handling routine matters, for fear of exceeding its appropriations. The most urgent needs of the board are an increased appropriation, and an additional force of men. Ample funds should be provided to properly conduct this work, and the board should be authorized to appoint such bacteriologists, chemists, inspectors, assistant executive officers, and such other officers as it may deem necessary, at salaries sufficient to induce competent men trained in hygiene to remain permanently in office. The day has long been past when sanitary affairs can be conducted by amateurs in or out of medicine, who have taken up hygiene as a sort of side issue."

Jan. 1, '08, p.43

- b N. Y. Hughes. "The laws relating to adulterations and impurities in food should be codified and presented in a single com-

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prehensive statute. I recommend the passage of a pure food law which will prevent the sale of adulterated or improperly branded foods. The law upon this subject passed at the last session I was unable to approve as it contained provisions which in effect would have made its restrictions inoperative. It is important that such a law should be clear and precise and make evasion difficult, if not impossible." Jan. 1, '08, p.26

- c R. I. Higgins. Pure food legislation. Jan. 10, '08, 22-23

967

### Milk

- a Mass. Guild. "The whole question of the supply, shipment and condition of milk needs, in my opinion, special investigation. When it is shown that shipment of milk from Massachusetts farms to New York costs less and can be made with more convenience than shipment from the same farms to Boston, when the chief of the cattle bureau makes himself responsible for the statement that most of the milk sold to the public is two or three days old, it is evident that even the good work now being done can be improved upon." Jan. 2, '08, p.16

1020

### Communicable diseases

*See also* 1065, Nuisances; 1144, Communicable diseases of animals

- a P. R. Post. "These instances [outbreaks of varioloid and typhoid] emphasize the necessity of the insular government being in a position to assist the municipalities in times of epidemic, and provision should be made by law and by appropriations, to enable the Governor to promptly aid the local authorities in cases of emergency." Jan. 14, '08, p.46

1024

### Maritime quarantine

- a N. Y. Hughes. "With respect to the quarantine station at the port of New York there is a divided authority. The health officer has general supervision and control of the quarantine establishment and the care and treatment of the sick. He appoints all needed assistants, has charge of the inspection of vessels, and generally has the duty of adopting whatever measures are needed for the protection of the public health. The custody of Hoffman and Swinburne islands, where persons subject to quarantine are detained, is in the control of three quarantine commissioners. While expenditures for general quarantine purposes are made by the health officer, the commissioners have the care of the buildings and improvements on the islands, and make expenditures for repairs or additions according to their appropriations. They also care for the persons detained, through superintendents whom they appoint, the expense of such care being defrayed by the owners or agents of the vessels. This division of authority answers no useful



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purpose. By far the most important part of the work of the station is now performed by the health officer, and it would not add in any impracticable degree to his responsibilities or require any increase in his compensation if he were charged with the duties now devolved upon the commissioners and had the custody and control of the islands. Treating the matter impersonally and without reflecting upon the commissioners, it seems to me that their offices are unnecessary and should be abolished. At present the health officer receives an appropriation for his laboratory, but otherwise pays his expenses out of the fees received, accounting for the balance over his expenses and compensation to the treasury of the state. This is in accordance with the present law, but in my judgment it should be changed so as to provide that all fees be paid to the State Treasurer and that the expenses of the office be provided for by appropriation." Jan. 1, '08, p.26-27

1030

**Special diseases**

1042

*Tuberculosis*

- a N. Y. Hughes. "The waste of life and productive energy which results from the prevalence of tuberculosis requires that every effort should be made to limit, if it is not possible to destroy, this scourge. It is gratifying that public sentiment is being aroused upon this question and that opportunity is afforded for the coöperation of public and private effort to attain the desired results. I recommend to the Legislature the adoption of measures (including those already mentioned with respect to the milk and meat supply) which will tend to prevent the spread of this disease. Provision should be made for notification and complete registration of cases and for the dissemination of necessary information. There should be suitable appropriations made to permit systematic effort under the direction of the commissioner of health." Jan. 1, '08, p.26

1065 **Nuisances (general). Miscellaneous health regulations**

1079

**Pollution of water**

*See also* 932, Public health; 2661, Sewerage

- a N. J. Fort. "The Potable Water and the Passaic River Flood District Commissions should both be abolished, and a single-headed department established to be known as the 'Department of Water,' with all the powers, now conferred upon these commissions, vested in such department. . . There is no justification for this duplication of commissions, in my opinion, and one commissioner at a reasonable salary, or three, if thought best, who should devote their time to the work, would save the state several thousand dollars per annum." Jan. 21, '08, p.17

1090

## Public safety

Protection of human life from accidents, casualties, etc. *See also* 1313, Railroads

1099

## Buildings: sanitation and safety

- a **Mass. Guild.** "Recent legislation giving the State Board of Health supervision over sanitary conditions in factories has apparently weakened the power of the state police to enforce the state building laws. I urge upon you the consideration and revision of the laws governing the inspection and control of buildings, that there be no conflict of authority, and that the public safety be preserved." Jan. 2, '08, p.31

1110

## Tenement houses

- a **N. Y. Hughes.** "One of the most beneficial statutes of recent years is the tenement house act, affecting the conditions under which so many of our people live in the crowded sections of our great cities. The consequences of evasion, if successful, are serious. I recommend the passage of such supplementary legislation as will strengthen the law, and I would urge the importance of maintaining unimpaired its salutary provisions." Jan. 1, '08, p.23

1144

## Communicable diseases of animals

- a **Mass. Guild.** "The cattle bureau should be set upon a more permanent footing. The salary of the chief of the bureau and of the chief clerk should be increased. The tenure of office of the chief should be made longer, as in all other departments; and the clerical service throughout, as elsewhere, placed on a permanent basis under the civil service act. The chief should be given authority to enforce the filing of reports with him. A general revision of all law in regard to rabies, glanders, tuberculosis and other diseases of animals should be made, placing all regulation under one authority. Conditions now troublesome through the operation of special legislation should be made uniform throughout the commonwealth, by the enactment of general law with more clearly defined provisions as to which official is or is not responsible for its enforcement." Jan. 2, '08, p.15-16
- b **O. Harris.** "The annual report of the State Board of Live Stock Commissioners is this year deserving of special consideration. Laws for the treatment of contagious diseases have been strictly enforced, but it is claimed that serious conditions may confront the live stock interests unless more provision is made for supervision. . . The tests of the board show that over 23% of the cows are tubercular. As tuberculosis of cattle and tuberculosis of man are the same disease and readily intercommunicable, there should be no doubt about furnishing the necessary means to eradicate this plague. It is more than an economic question. In addition to maintaining strict quarantine and thorough super-



1144

vision, there should be provision for the payment of a fair compensation to the owners of officially condemned tubercular cattle. . . The board recommends that the owners of the destroyed horses and swine be compensated as provided by law and that the owners of the condemned cattle receive one half of the appraised value. There are now on hand 116 claims for slaughtered horses, cattle and swine, aggregating a valuation of \$20,369.25, which the state is under moral as well as legal obligation to pay. The federal statistics for 1906 value the live stock in Ohio at \$125,954,616, and the state appropriation for live stock sanitary work was only \$5000. Other states with less live stock than Ohio appropriate many times as much for protection through the agency of this department, and I trust that the appeal of the board for more liberal support will be given due consideration."

Jan. 6, '08, p.26-27

1151

### Special diseases

1167

### *Tuberculosis*

- a N. Y. Hughes. "I call your attention to the serious importance of dealing with the question of bovine tuberculosis. The disease is spreading, and we not only suffer from what may be called its natural increase, but the measures that are taken in neighboring communities for their own protection have made our state the recipient on a large scale of tuberculous cattle which have been rejected elsewhere. Such a condition is intolerable and the people of the state should be alive to the necessity of taking most stringent means for their protection. The subject should be thoroughly examined and expert advice should be obtained as to the best measures to be adopted. There should also be provision for proper meat inspection. State inspection to insure local protection, particularly with regard to the disposition of rejected animals, is a necessary supplement to federal inspection in connection with interstate commerce."

Jan. 1, '08, p.22

1180

## Control of waters

*See also* 1384, Canals; 1800, Navigation

1183

### Irrigation. Water rights in arid states

- a P. R. Post. "The continuance of the drought on the south side has cost the island, directly and indirectly, a loss of over a million dollars, and thousands of acres of land, capable of producing the best crops in the island, are lying waste. . . Irrigation districts should be established, and the administration of the plant intrusted either to a board of trustees, or a corporation composed of the property owners of the district. The government could guarantee the interest and principal of a loan sufficient to construct the system, and collect from the property benefited amounts



1183

sufficient to provide for the payment of interest and the redemption of the loan." Jan. 14, '08, p.41

- b U. S. Roosevelt. "Irrigation should be far more extensively developed than at present, not only in the states of the Great Plains and the Rocky mountains, but in many others, as, for instance, in large portions of the South Atlantic and Gulf States, where it should go hand in hand with the reclamation of swamp land. The federal government should seriously devote itself to this task. . . ." Dec. 3, '07, p.28-29

1190

**Power rights. Water storage**

- a N. J. Fort. "The present board of Riparian Commissioners should be abolished. It has four members, costing the state for salaries, \$6000. A single commissioner, at one half this expense, who should devote himself to this work and whose acts should be subject to the approval of the Governor and the Attorney General, would answer every purpose, and assure much better results than those now attained." Jan. 21, '08, p.16
- b N. Y. Hughes. "Under an act passed at the last session, an inquiry is now in progress through the Water Supply Commission with regard to the undeveloped water powers of the state. Means should be provided to enable this investigation to be completed with thoroughness. In the light of exact information, a proper policy with reference to the development and control of water powers should be established in order that these important sources of our prosperity may be held to the utmost extent possible for the benefit of all the people. No grant should be made of water power privileges without compensation and under restrictions which will properly protect the rights of the public from whom the privileges are derived." Jan. 1, '08, p.25

1192

**Drains. Dikes. Levees**

*See also* 1183, Irrigation; 2661, Sewerage

1197

*Levees. Dikes*

- a La. Blanchard. ". . . I recommend and urge upon you the enactment of the legislation needed to authorize the Orleans Levee Board to issue \$3,000,000 of bonds to complete the scheme of levee protection of the city." May 12, '08, p.31-34

1200

**Transportation and communication**

*See also* 1800, Navigation

1204

**Rates. Discrimination**

1212

**Rates (general)**

- a Ala. Comer. Recommends amendments to law governing railroad passenger and freight rates so as to secure compliance therewith. Nov. 7, '07, p.5-16

## TRANSPORTATION

1212

- b **Kan.** Hoch. “. . . I think, however, when the work of the Board [of Railroad Commissioners] is finally completed and it orders its schedule of [freight] rates into operation it should be put into operation by the railroad companies without delay, and I recommend the enactment of a law providing a sufficient penalty for failure to obey the final mandate of the board, said penalty to be paid if the order of the board stands the final test of the courts, and to be remitted if it does not. . .” Jan. 16, '08, p.11

1227

### Passenger rates

*See also* 1365, Street railways

- a **Kan.** Hoch. “Since the adjournment of the regular session a two cent passenger fare rate has been secured upon all the railroads in this state. Counsel for the corporations contend that the Board of Railroad Commissioners had no legal right to change a statutory passenger rate, and this proposition will no doubt be seriously argued by them in the courts. This question should be settled upon its merits and not upon a technicality. While I have no doubt myself of the legality of the order of the board, nevertheless I recommend that you remove this phase of the question from controversy by the enactment of a straight two cent passenger fare law and incidentally the repeal of the mileage book law.” Jan. 16, '08, p.11

1232

### Mileage books

- a **La.** Blanchard. Compulsory issuing of interchangeable mileage books by railroads. May 12, '08, p.24

1237

### Passes. Franks.

*See also* 1365, Street railways

- a **Ill.** Deneen. Recommends law prohibiting railroad passes modeled after that of federal government. Oct. 8, '07, p.10

1238

### Race distinction

- a **Okl.** Haskell. “I recommend the immediate passage, by emergency act, of laws providing for separate railroad coaches and waiting rooms for persons of African descent, and that the same be of equal comfort and convenience with the coaches and waiting rooms provided for other passengers.” Dec. 2, '07

1240

### Miscellaneous. Common carriers

1244

### Baggage

- a **Ala.** Comer. “The excess baggage bill, which passed the Senate and was left on the calendar of the House, I am informed, simply lacked time for its final passage. Many deem this measure beneficial and just, and I refer the same to your consideration.” Nov. 7, '07, p.5

1247

### Loss or damage

- a **Ga.** Smith. "Section 2334 of our Code, . . . in some cases prevents the recovery by a shipper of his just damages to his property against the carrier causing such damages because it is impossible to prove the particular county in which the cause of action originated. . . I recommend for your consideration an amendment to the section by adding as places where suit may be brought the county of the principal operating office of the carrier, and any county through which the damaged freight moved, and in which the carrier has an agent." June 24, '08, p.24

## Roads. Streets

*See 2700*

1267

## Railways. Car companies. Express

Chiefly steam roads but many of the general laws and special provisions include all kinds of railways. *See also* 500, Corporations; 841, 845, Taxation; 2040, Labor

- a **La.** Blanchard. "The people of Louisiana declared their purpose to have proper control over public service corporations when they created the State's Railway Commission. To it they delegated certain powers, but experience has shown the quantum of authority vested in the commission has not been sufficient to enable it to effectuate the purposes for which it was created. More and greater authority is needed by the commission, and this need was recently set forth forcibly in an address to the people of the state issued by the commission. Vigorous efforts to obtain legislation in aid of its powers have for several years been made by the commission before the legislative assemblies of the state. It has had prepared and presented bills for the purpose, but not yet has the full and requisite measure of authority been placed in their hands. . . ." Nov. 11, '07, p.28-29
- b **Mass.** Guild. "It is not an exaggerated charge, but a simple statement of fact, to say that no steam railroad now operated in Massachusetts is giving the service that it should give to the public. Delay in the shipment of freight and a general tardiness of all trains has marked the service on all of our railroads. The equipment of all lines in locomotives is inadequate. The trackage in the commonwealth is notoriously insufficient for the business offered, either in freight or passenger service. Sleeping cars on through lines are not fitted with the conveniences supplied even on trains running between cities of secondary size in the middle west. We have to consider not the mere punishment of corporations, but how we may provide more tracks, more cars, better and more locomotives. Any one can wreck and destroy; it is our business to create and improve. The Commission on Commerce



and Industry is engaged in a thorough, impartial investigation of the steam railroads of the commonwealth, and of the causes that have prevented investment in transportation companies in Massachusetts during the last decade. I ask you to continue the life of this commission at least until their report can be completed and placed at your disposal. Detailed and exact knowledge of actual existing conditions should precede any action in any case in question.

Existing law is inadequate to deal with public control of railroads. The Massachusetts Railroad Commission, the pioneer in state control of public service corporations, should be clothed with ampler powers. It should at least be given the same control of railroads within Massachusetts that is given to the Interstate Commerce Commission in regard to roads doing an interstate business. It should be given power not merely to recommend but to enforce the use of appliances that will tend to prevent the loss of life or limb on street or on steam railways. It should be given the power to compel steam railways to run their trains in accordance with their advertised schedule, and, if necessary, penalties should be imposed for failure to do so." Jan. 2, '08, p.8-10

c U. S. Roosevelt. "The most vital need is in connection with the railroads. As to these, in my judgment there should now be either a national incorporation act or a law licensing railway companies to engage in interstate commerce upon certain conditions. The law should be so framed as to give to the Interstate Commerce Commission power to pass upon the future issue of securities, while ample means should be provided to enable the commission, whenever in its judgment it is necessary, to make a physical valuation of any railroad. As I stated in my message to the Congress a year ago, railroads should be given power to enter into agreements, subject to these agreements being made public in minute detail and to the consent of the Interstate Commerce Commission being first obtained. Until the national government assumes proper control of interstate commerce, in the exercise of the authority it already possesses, it will be impossible either to give to or to get from the railroads full justice." Dec. 3, '07, p.5

d U. S. Roosevelt. ". . . The Interstate Commerce Commission should be empowered to pass upon any rate or practice on its own initiative. Moreover, it should be provided that whenever the commission has reason to believe that a proposed advance in a rate ought not to be made without investigation, it should have authority to issue an order prohibiting the advance pending examination by the commission. . . In some form the federal government should exercise supervision over the financial operations of our interstate railroads. . . The usual result of such inflation is therefore to impose upon the public an unnecessary but everlasting tax, while the innocent purchasers of the stock are also harmed and only a few speculators are benefited. Such wrongs when once accomplished can with difficulty be undone; but they

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can be prevented with safety and with justice. When combinations of interstate railways must obtain government sanction; when it is no longer possible for an interstate railway to issue stock or bonds, save in the manner approved by the federal government; when that government makes sure that the proceeds of every stock and bond issue go into the improvement of the property and not the enrichment of some individual or syndicate; when, whenever it becomes material for guidance in the regulative action of the government, the physical value of one of these properties is determined and made known — there will be eliminated from railroad securities that element of uncertainty which lends to them their speculative quality and which has contributed much to the financial stress of the recent past. I think that the federal government must also assume a certain measure of control over the physical operation of railways in the handling of interstate traffic. The commission now has authority to establish through routes and joint rates. In order to make this provision effective and in order to promote in times of necessity the proper movement of traffic, I think it must also have authority to determine the conditions upon which cars shall be interchanged between different interstate railways. It is also probable that the commission should have authority, in particular instances, to determine the schedule upon which perishable commodities shall be moved. In this connection I desire to repeat my recommendation that railways be permitted to form traffic associations for the purpose of conferring about and agreeing upon rates, regulations, and practices affecting interstate business in which the members of the association are mutually interested. . . . The articles under which such associations operate should be approved by the commission; all their operations should be open to public inspection; and the rates, regulations, and practices upon which they agree should be subject to disapproval by the commission.”

Jan. 31, '08, p.5-7

e U. S. Roosevelt. “I again call attention to the urgent need of amending the interstate commerce law and especially the antitrust law along the lines indicated in my last message.” Mar. 25, '08, p.2

f U. S. Roosevelt. Enlargement of powers of Interstate Commerce Commission. Apr. 27, '08, p.5-14

1268

## Corporate organization and power

*See 1267*

1272

## Consolidation, sale, lease

- a Mass. Guild. “I suggest for your consideration, not in any one specific case, but as a matter of general policy, these propositions:
- 1 Shall a steam railroad be allowed to control trolley lines? The intent of the law of Massachusetts clearly prohibits such control. The competition in passenger service and, since the law of 1907, in express service between steam and street railroads is, I believe, healthy, and should be maintained.



2 Should an express company be permitted to control a railroad, and through a railroad freight rates? I believe that the influence of express companies in the control of railroads hampers their development and tends to damage the general interest of the public. I believe that the ownership of railroad stocks by express companies should be discouraged.

3 Should railroad companies be permitted to own or to control or to establish steamship lines? Under a Massachusetts charter, which we all desire for all roads in this commonwealth, even beneficial extension of business along these lines is practically impossible. . . . If a Massachusetts railroad should wish, for example, to run a line of steamships from Boston to Buenos Ayres, why is not that manifestly a splendid, logical, evident opening for Massachusetts enterprise, and why should it be prohibited?

4 Should one steam railroad be allowed to control another? Such control, whether through ownership of stock or otherwise, directly or indirectly, is at present forbidden by statute. I believe that on certain terms permission for some union of interests not in violation of any national statute might be granted. Such permission, however, should not precede a thorough examination of the real condition of the two roads involved, and, if granted, should be accompanied by changes in law giving the Railroad Commission greater powers of public control, together with other changes, as to which I may have something to say later, further safeguarding the public interests.

We have three steam railroad systems in Massachusetts: one is a Connecticut corporation, one is dominated by an express company with headquarters in New York, one is leased by the New York Central Railroad, and can not be combined with the others without violating the national law prohibiting the consolidation of competing lines doing an interstate business. This condition is bad. The surrender to any outside corporation of all local control of Massachusetts transportation would be worse. The loading up of railroads with heavy permanent fixed charges, as the result of long leases, has been as unfortunate for the public as for the railroads. One condition must at all events be enforced in any proposed consolidation: stringent permanent provisions should be made against any control of any New England road by any corporation, American or Canadian, with an Atlantic terminal for east-bound freight anywhere outside New England. I believe any possible combination should be effected not by a lease imposing permanent extravagant fixed charges alike on the corporation and the public, but by a community of interest between two systems both of which in Massachusetts should run under Massachusetts charters, each supplementing the other, with headquarters in Boston, and managed solely for the development of New England. I believe it is worth trying by new legislation not merely to escape the surrender of the relics of New England control which we at



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present possess, but to cover the control that we have already lost, that not merely New England Legislatures but New England railroads may strike at the shackles about New England commerce, and stimulate New England industry." Jan. 2, '08, p.10-13

1279

### Stocks, bonds, mortgages

- a Mich. Warner. "Over capitalization of railroad companies is an evil that should be guarded against. It is to be regretted that Michigan has no law that will prevent resort to this method of defrauding the people and in some instances bankrupting the companies themselves. Stock jobbing and stock watering schemes should, in the interest of both the public and the corporations themselves, be prevented by legislation. These unhealthy and financially unsound methods of manipulation in the interests of the few not only defraud the general public by taking from it unwarranted tolls, but it most seriously cripples the facilities and service of these public service corporations. . . I, therefore, recommend that legislation be enacted that will bring this matter under state control or supervision." Oct. 10, '07, S. J. p.24-25

1280

### Public ownership and aid

1281

### State railways and ownership of stock

- a Ga. Smith. Recommends change of terminals of Western and Atlantic Railroad (owned by the state) at Chattanooga, and extension of the road to the Atlantic ocean. June 24, '08, p.19-21

1286

### Supervision and regulation

*See 1267*

1288

### Construction and maintenance

- a La. Blanchard. "If the State Railroad Commission has not now the power it should be given it to require railroad companies to put a larger per cent of their earnings in the improvement of their roads and rolling stock. And give the commission also, the authority to fix a standard of roadbed." May 12, '08, p.24

1300

### Reports. Accounts

- a Ill. Deneen. "I may also call your attention in connection with this matter to the recent action of Congress authorizing the Interstate Commerce Commission to prescribe a system of uniform bookkeeping for railroads engaged in interstate transportation. The advantage of the adoption of such a system by our state, in connection with the proposed enlargement of the powers of the Railroad and Warehouse Commission, is obvious."

Oct. 8, '07, p.10

1313      **Public safety, comfort and order**1314                      **Safety regulations**1315                      *Accidents. Liability**See also 2125, Employers liability*

- a      U. S. Roosevelt. "The loss of life and limb from railroad accidents in this country has become appalling. It is a subject of which the national government should take supervision. It might be well to begin by providing for a federal inspection of interstate railroads somewhat along the lines of federal inspection of steamboats, although not going so far; perhaps at first all that it would be necessary to have would be some officer whose duty would be to investigate all accidents on interstate railroads and report in detail the causes thereof. . . ." Dec. 3, '07, p.19

1320(5)                      *Employees**Regulations in interest of public safety*

- a      Okl. Haskell. "I recommend the enactment of legislation . . . limiting the maximum of hours of service upon railroad trains, examination and qualifications of engineers, conductors and dispatchers, that the safety of the employees and passengers may be better assured." Dec. 2, '07

1337                      **Street railways***See also 500, Corporations; 841, 845, Taxation; 2040, Labor*

- a      N. Y. Hughes. "Through the work of the Public Service Commission of the first district existing facilities will be availed of to their utmost capacity to improve conditions of transit. But the natural increase in the demands for service, which is incident to the rapid growth of the city, necessarily outstrips any possible improvement in the facilities at present available. . . . It is urged, however, that the city's indebtedness has reached such an amount that there is not a sufficient margin available to enable the city to provide for the construction of needed subways. The Charter Revision Commission recommends that the Constitution should be so amended as to exclude from the computation of the city's debt limit all bonds or evidences of indebtedness issued for purposes which produce revenues in excess of their maintenance charges. I concur in this recommendation and I present it to you for appropriate action, looking to the submission to the people of the proposed amendment in suitable form. In the meantime the question whether any changes in the rapid transit act should be made in order to facilitate subway construction, should receive your most serious consideration." Jan. 1, '08, p.12-13  
     Recommendation as to subways renewed. Apr. 9, '08, p.3

General supervision, *see* 1337

1365

*Fares. Passes*

- a Ala. Comer. "A question has been raised as to whether or not your statutes regulating public service corporations allow street car companies to furnish free transportation to policemen and firemen and reduced rates to school children. This is an important question and I refer the same to you for consideration and appropriate action." Nov. 7, '07, p.5

1384

Canals

*See also* 1800, Navigation. Waterways

- a Ill. Deneen. Determination of rights of state and of private interests along route of proposed deep waterway from Lake Michigan to the Illinois river. Nov. 6, '08, p.1-4  
Same. Nov. 26, '08, p.1-4
- b N. J. Stokes. "A convention, known as the Atlantic Deeper Inland Waterways Conference, contemplating an inside route from Cape Cod, Massachusetts, to Beaufort, North Carolina, was held in Philadelphia, in the month of November. The proposition involves a ship canal across our state from the Delaware to the Raritan, affording a highway of commerce that would compare favorably in the amount of tonnage transported with even the Panama or the Suez. No state would perhaps benefit as much as New Jersey in the event of the construction of this proposed inland water route. . . The interest of New Jersey in this matter is so great that I commend it to your careful consideration and ask your encouragement so far as it can be properly given." Jan. 14, '08, p.49
- c N. Y. Hughes. "I renew my recommendation of last year that in place of the present expensive method of appraising lands acquired for this purpose [canals], the matter of appraisal and the making of agreements of purchase or for the settlement of damages should be committed to the Superintendent of Public Works subject to the approval of the canal board." Jan. 1, '08, p.7  
Recommendations renewed. Apr. 9, '08, p.4
- d O. Harris. "The Board of Public Works asks for \$281,000 for the Miami and Erie, and \$215,000 for the northern part of the Ohio and Erie canal in continuing this work of reconstruction the coming year. The total estimate of \$496,000 is \$110,000 less than the aggregate appropriations made for the canals at your previous session, and is considered necessary to carry out the work that is already under way. If the old method of transporting by boats were still to be depended upon, I might question the expediency of further expenditures along these lines. But invention has brought radical changes in the method of propelling boats in narrow and shallow waterways. The new system of power has been in operation most successfully on the Erie canal in New York. The use of such propellers on our canals has been found, since your last session, to be not only practicable, but also profit-



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able. Unfortunately there are, as yet, only small parts of our canals in navigable condition. It has been demonstrated, however, that the new method of propelling will operate successfully wherever the old method was used. The improvement of the canals is not now for any convenience or advantage of water power or for any other purpose than that of transportation. I desire to call your attention to the report of Chief Engineer Perkins, on the modern method of propelling and its bearing on low rates for hauling, and also to ask your careful consideration of the recommendations of the Board of Public Works."

Jan. 6, '08, p.29-30

1411

## Telegraph and telephone

*See also* 500, Corporations; 841, 845, Taxation; 2040, Labor

1414

### Supervision

- a N. Y. Hughes. "I recommend an enlargement of the scope of the act [public service commissions law]. In view of the tasks to be assumed with respect to corporations already under supervision, it was not thought best at the outset to extend the act to other corporations. It should now be extended to telephone and telegraph companies and they should be brought under appropriate regulation as to rates, service, and other matters, similar to that which obtains in the case of the corporations at present subject to the law."

Jan. 1, '08, p.11-12

Recommendations renewed.

Apr. 9, '08, p.3

- b O. Harris. "In order that rates for telephonic service shall be uniform in the various classes of service and in the various localities where similarity of conditions exist, and to the end that charges for telephonic service should be properly regulated, I recommend such legislation as will place in the hands of the Railroad Commission, the power to fix and establish rates to be charged for telephonic intercommunication, and that such laws be enacted as will prevent unjust discrimination in such rates. It is also desirable that more efficient regulation be provided for the occupation of public highways, both within and without municipal corporations, where wire-using companies are unable to agree with the officials, who under the law at present are charged with such regulations, either by enlarging the power of the Probate Court as a court of appeals in such matters, so as to give that court the power to fix the manner of use of underground and other construction, or, to give to the Railroad Commission, or some other suitable commission, the power to fix such terms in case of disagreement."

Jan. 6, '08, p.36-37

1421

### *Transmission and delivery. Secrecy*

- a La. Blanchard. "Telephone and telegraph companies should be required to transmit each other's messages and to make necessary connections for that purpose."

May 12, '08, p.82

1422

## Commerce and industry (general)

1464 **Adulteration and imitation. Branding. Inspection**

*See also 956, Adulterations liable to affect public health*

1466

### Adulteration. Inspection

- a Ala. Comer. "I am told that the cotton seed meal and fertilizer bill, which was passed at the recent session of the Legislature, in some of its requirements, works a hardship both on the manufacturer and the consumer. This is a very important matter, which should be most carefully considered and any defect remedied."

Nov. 7, '07, p.3

1474

### *Fertilizers*

- a O. Harris. "The fertilizer law of Ohio should be amended so as to give the farmer better protection from frauds which may be, and sometimes are, practised in this state in the sale of commercial fertilizers. The farmers not only lose on account of the low commercial value of the goods which they may receive, compared with the goods they buy, but their loss is many times greater in the effect on their crop and the damage to their soil than the loss in the intrinsic value of the goods. I suggest that the license for the privilege of selling or offering for sale any brand of commercial fertilizer in this state be increased to an amount that in the aggregate will make a sufficient fund in the hands of the Secretary of the State Board of Agriculture to permit him to supply a sufficient number of inspectors to do the work assigned to them in an efficient and satisfactory manner and to give the farmers, under reasonable restrictions, the privilege of sending samples of goods purchased by them for their own use to the Secretary of the State Board of Agriculture to be analyzed, the same as the samples procured by the inspectors. I further suggest that the amount of the fine and the term of imprisonment be increased so as to make the penalties commensurate with the offense."

Jan. 6, '08, p.24-25

1478

### *Grain and grain products*

- a U. S. Roosevelt. ". . . I suggest to the Congress the advisability of a national system of inspection and grading of grain entering into interstate and foreign commerce as a remedy for the present evils."

Dec. 3, '08, p.27

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### *Petroleum products*

- a O. Harris. "When the Department of State Inspection of Oils was created, its sole purpose was to provide protection to consumers of petroleum products used for illuminating purposes. It sought to compel refiners to extract from such products, as



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they offered for sale for illuminating purposes, so much of the lighter elements of petroleum, such as are commercially known as gasoline, benzine, naphtha, etc., as would render the consumer practically secure from explosion. Protection should be extended to the consumers of these lighter substances. In other states, which maintain a department similar to this, gasoline used for commercial purposes, is submitted to a gravity test and the certificate of the department is as necessary in the one instance as in the other. When our law was enacted years ago the old method of distribution in barrels largely obtained. There were comparatively few depots from which petroleum to be used for illuminating purposes was shipped. At the present time there are approximately two hundred tank stations in the state from which oil and gasoline are distributed to retail dealers and consumers direct by way of tank wagons. In view of these new considerations I recommend:

1st, that the law be so amended as to provide ample protection to consumers of all products of petroleum the uses of which are hazardous.

2d, that the fee for inspection of oil should be increased to 10 cents per barrel of 50 gallons and provision made for the inspection of gasoline and the same fee charged therefor.

3d, that there should be a readjustment of deputies' fees to suit the changed condition of distribution." Jan. 6, '08, p.27-28

1505

## Associations. Exchanges. Speculation

1507

### Speculation. Bucket shops

a N. Y. Hughes. "I recommend that provision be made, by a commission serving without compensation but with proper appropriations for expenses, for suitable inquiry into the facts relating to speculation in securities and commodities with a view to ascertaining the manner in which illegitimate transactions may be prevented and legitimate business safeguarded." Apr. 9, '08, p.4

b U. S. Roosevelt. "I do not know whether it is possible, but if possible, it is certainly desirable, that in connection with measures to restrain stock watering and overcapitalization there should be measures taken to prevent at least the grosser forms of gambling in securities and commodities, such as making large sales of what men do not possess and 'cornering' the market. . . But if it is possible to devise a way to deal with it the effort should be made, even if only in a cautious and tentative way. It would seem that the federal government could at least act by forbidding the use of the mails, telegraph and telephone wires for mere gambling in stocks and futures, just as it does in lottery transactions."

Jan. 31, '08, p.9-10



1508

## Warehouses. Markets

1510

### Warehouses

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#### *Warehouse receipts*

- a La. Blanchard. "Another bill the Conference [on Uniform State Laws] has had drafted, and which it indorses and recommends, is an act to make uniform the law of warehouse receipts. A copy of this proposed law is embodied in the report made to me by the Louisiana commissioners to the conference, which report will be laid before you. The act has already been adopted by a number of states, including the great commercial states of New York and Illinois, and I commend it to your favorable consideration." May 12, '08, p.48-49
- b R. I. Higgins. Uniform warehouse receipts act. Jan. 10, '08, p.22-23

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### Tobacco warehouses

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#### *State warehouse*

- a Md. Warfield. "The last Legislature, under chapter 804, acts of 1906, appointed a commission to build a new warehouse and to repair the old warehouse. The cost was to be paid out of the proceeds of the sales of the tobacco warehouses 1 and 2 and the warehouses sold to the city. After the commission had adopted the plans and decided upon the improvements, the act was declared unconstitutional and the work of the commission stopped. You will, no doubt, be called upon to reenact said law or pass a more comprehensive one. The sentiment of the tobacco growers of the state is almost unanimous in favor of the construction of a modern, up to date warehouse of large capacity for inspection, in order that the system of inspection and storage may be placed under one management; thus bringing about reductions in the number of employees and operating expenses. The amount in the treasury available for this purpose is \$269,030.60. . . Plans for the re-organization of the inspection system will be presented to you and deserve your most intelligent consideration." Jan. 1, '08, p.27-28

1532

## Regulation and licensing of trades and occupations

- a N. J. Stokes. "Attention has already been called to the numerous quasi-professional boards of the state which have authority to license applicants who desire to follow certain vocations. Members of these boards, their presidents and secretaries are scattered over the state, and are not generally known to those who have business with them. These boards should either have a common secretary, or some representative with an office in the Capitol, to whom all communications could be addressed, and who could furnish information in response to inquiries either by letter or in person." Jan. 14, '08, p.36

1590

## Miscellaneous trade regulations

1596

### Legal holidays. Public holidays

- a Cal. Gillett. "It is possible to declare holidays to protect our financial and commercial interests and still leave the courts open to dispatch a large variety of necessary business. Therefore the law should be amended so that during holidays declared by a proclamation issued by the Governor the courts may remain open for the prosecution of all criminal actions and proceedings; to conclude any action pending and on trial; in all suits for injunction; to quiet title to real property; for partition; condemnation proceedings; forcible entry and detainer or unlawful detainer; replevin; ejectment; divorce; probating of estates of deceased persons, and many other matters not necessary to mention. . . The law as it now applies to regular and fixed holidays should remain as it is, the change being made only in reference to what may be termed special holidays declared by the Governor's proclamation." Nov. 19, '07, p.5

- b Okl. Haskell. "The opinion seems to prevail in many localities that the holiday recently declared to exist by virtue of a proclamation of the Territorial Acting Governor was applicable only to the banking business of the state, and numerous letters and petitions have been received by me since statehood was proclaimed asking that I extend this holiday protection to farmers and other business men. I have taken no action in the premises, but recommend that the law upon this subject should be that so far as any holiday, or series of holidays may operate to suspend the collection of debts or other suspension of business that the law shall always be uniform, giving the same degree of protection to everybody." Dec. 2, '07

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## Encouragement of industries

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### Expositions

*See also 1835, Fairs*

#### *Alaska-Yukon-Pacific Exposition*

- a La. Blanchard. May 12, '08, p.76
- b U. S. Roosevelt. "The courage and enterprise of the citizens of the far Northwest in their projected Alaska-Yukon-Pacific Exposition, to be held in 1909, should receive liberal encouragement. . ." Dec. 3, '07, p.38
- c W. Va. Dawson. "A great exposition is to be held next year in the city of Seattle, in the state of Washington. I have been asked by the managers thereof to provide for the representation of this state in such exposition. If the Legislature shall see fit to provide for such representation it will be the pleasure of the executive department to carry out your will; but if no action is



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taken by you, I will consider it as an expression of your opinion that it is not practicable for this state to be represented at this exposition." Jan. 28, '08, p.11

*Ecuador Exposition*

d La. Blanchard.

May 12, '08, p.76

1675

**Resources and attractions. Immigration**

a N. Y. Hughes. "The condition of immigrants from foreign countries who in large numbers remain in this state, requires careful study. We can not afford to ignore the situation and our first effort should be properly to understand it and to take whatever measures may be necessary to protect these newcomers from the special forms of imposition of which they are the victims and through a proper distribution to realize their economic value. The matter has many phases which may well form the subject of a special investigation. I recommend that provision be made for the appointment of a commission for this purpose. And as it is a field which has engaged the attention of many public-spirited citizens, I believe it would be possible to obtain a commission possessing the highest qualifications which would serve without compensation." Jan. 1, '08, p.23

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## Banking

*See also 500, Corporations*

a Cal. Gillett. "Our banking laws need to be amended so as to afford better protection to the depositor. The large trust companies and corporations doing an interstate business should be placed under federal supervision and subject to federal laws, and if there is no authority for this under the present Constitution, then the Constitution should be amended so as to grant such power. I suggest that the Legislature appoint a committee to investigate the methods of doing banking business in this state, and to report thereon at the next regular session, together with such recommendations and changes in the law as such committee may deem necessary." Nov. 19, '07, p.4

b Ga. Smith. "Our banking laws are defective. . . While our insurance laws are not so defective, yet there is substantial room for improvement, and they ought to be modeled after those systems of insurance laws which have been tested by experience and have been proven to be effective. This is a work too extensive for the ordinary service of a legislator. . . My own suggestion would be that two commissions be appointed, consisting of three members each from the present Legislature, one of whom will be in the next Senate and two of whom will be in the next House. These respective subjects might be referred to these commissioners with the duty of working out legislation to be submitted a year hence." June 24, '08, p.22-23

c N. Y. Hughes. "The recent financial disturbance has directed attention to the importance of amending the law relating to banks



and trust companies. There is much reason for gratification in the fact that for the most part our institutions were found to be sound and that only a few were compelled to give way despite an unparalleled strain. But every practicable means should be adopted to prevent repetition of reprehensible practices and to assure the proper management of the financial institutions chartered and supervised by the state, upon whose stability and prosperity the interests of our people in every walk of life so largely depend.

In order that the matter might be considered with appropriate promptness and in the light of expert opinion, I requested six eminent bankers representing respectively the different classes of institutions, to collate facts, to receive suggestions and to express their views with reference to necessary changes in the law of the state. These gentlemen, Messrs A. Barton Hepburn, Edwin S. Marston, Edward W. Sheldon, Algernon S. Frissell, Stephen Baker and Andrew Mills undertook the task as a matter of public duty, serving without compensation and defraying their own expenses. I submit to you their valuable report, inviting your most careful consideration of its recommendations and also of those contained in the report of the Superintendent of Banks.

It is advised that there should be an enlargement and more careful definition of the powers of the Superintendent of Banks with reference to the organization of banks and trust companies, the establishment of branches of either, and mergers or the control of one institution by another. Recent events have demonstrated the necessity of providing effective means for preventing the exploitation of banks and trust companies and the acquisition and use of a control of a number of institutions to facilitate selfish schemes opposed to sound banking. If suitable restrictions are imposed in explicit form and with appropriate penalties, insuring adequate knowledge and proper action on the part of the board of directors with regard to loans and other transactions; preventing the deposit of moneys of one institution with another in order that the officers, directors, or stockholders of the former may obtain desired credits from the latter; limiting the amount which may be loaned by any bank or trust company upon the stock of another financial institution; reducing the amount which may be loaned upon collateral to any one interest; and erecting proper safeguards against loans and investments in aid of schemes of promotion represented by unmarketable securities; and if in addition suitable means are provided for the enforcement of the rulings of the Superintendent of Banks with regard to improper or unsafe practices, the security of our financial institutions, and the confidence which springs from just reliance upon their proper management, will greatly be strengthened.

The members of the committee are not agreed upon the subject of reserves. The maintenance of reserves, to the highest extent suggested, of course will not protect against the consequences of

improper investments or save an institution that is in an unsound condition. But it is apparent that the existence of demand obligations requires reserves to be maintained and that they have the salutary tendency to prevent an undue expansion of credits. The arguments that are adduced with respect to the different reserve plans which are proposed, I submit to your consideration.

With regard to trust companies, however, the matter of reserves is a phase of a larger question. It was not contemplated by the law relating to trust companies that they should engage in the same business as banks. Their powers were defined with reference to the execution of trusts and to action in fiduciary capacities, with such incidental privileges as were deemed consistent with the general purposes. In practice, however, they have engaged in the banking business upon a large scale and the moneys deposited with them are for the most part payable on demand. Despite this development of their business it was not until 1906 that they were required to keep any cash reserve, and this is much less than that required of banks. Whatever else may be said on the subject, it would seem clear that business of the same sort should be transacted under the same conditions. It is not the name of the institution which justifies the imposition or the omission of the restriction, but the kind of business.

In my judgment nothing will meet the situation with fairness to the interests of the banks, of the trust companies, and of the public which deals with both, which does not require that each distinct field of operation should carefully be delimited and that any corporation transacting business in a particular field shall be subject to the obligations and restrictions which pertain to that field. Whatever reserves, or other restrictions, may be deemed advisable with reference to demand deposits in the case of a bank should be equally obligatory with reference to the same sort of deposits in the case of a trust company. Similarly the savings bank business is a distinct field, and business of this sort should be transacted only by institutions subject to the restriction of the savings bank law.

The amount of legal expenses incident to the liquidation of insolvent banking institutions in this state is a grave scandal to which the committee of bankers fittingly calls attention. I recommend that provision be made for liquidation under the supervision of the Superintendent of Banks and that he shall have authority to appoint liquidating agents and necessary assistants to enable him to wind up the business in the most speedy and economical manner. I do not think that there should be an attempt to oust the court of its jurisdiction to appoint receivers. But the present provisions of law for exclusive liquidation through receivers appointed by the court may be changed and the courts should be left to exercise their jurisdiction in cases where they deem it necessary to interfere with the ordinary course of liquidation. And it



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should be provided that application for the appointment of receivers by the court shall be made in the judicial district in which the corporation has its principal place of business and that proper notice of the application shall be given to all creditors. Similar provision should be made for the liquidation of building and loan associations."

Jan. 1, '08, p.8-11

Recommendation renewed.

Apr. 9, '08, p.3

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*Inspection. Reports. Departments*

- a **Ga.** Smith. ". . . I recommend also for the consideration of the Legislature the creation of a distinct office of Bank Examiner and a distinct office of Insurance Commissioner."

June 24, '08, p.22

- b **Ga.** Smith. ". . . I must call your attention to the fact that the present act calling for bank examinations does not furnish an adequate expense fund to cover a thorough system of supervision and regulation. If the state does not intend to give a supervision and regulation of state banks upon which the public can rely, the state should not mislead the public by creating the impression that it is doing so."

June 24, '08, p.23

- c **Md.** Warfield. ". . . The laws of the state of Maryland relating to banks and trust companies are very unsatisfactory, and it will rest with you to enact such a law as will meet the requirements of the present conditions. Legislation creating such a department [banking] should be maturely considered. The appointment of the superintendent [of the] department should be lodged with the Governor who should be clothed with power of general supervision of the administration of the department."

Jan. 1, '08, p.21-22

- d **O.** Harris. "According to the returns made to the Auditor of State, it appears that on November 15th, 1906, there were 595 banking institutions or corporations organized under the laws of Ohio, doing business, with about \$370,000,000 of deposits. A large amount of this vast sum represents the savings of working men and women. There is no provision for the examination or supervision of these institutions. The law provides only that a report of their conditions shall be made under oath by an officer of the banking house, on the call of the Auditor of State, twice a year, and a copy of such report printed in a newspaper in the locality where the institution is located. These reports show very little that tends to inform the public of the stability of the bank. The vital question is, what is the value of the securities held for loans or discounts. . . I most earnestly suggest the passage of an act providing for state supervision and examination of all such banks."

Jan. 6, '08, p.39

- e **Okl.** Haskell. "Recent events, in my judgment, make it desirable that the laws of our state should be so reformed as to insure the safety of every dollar deposited in the banks of our state, and



to this end, I recommend to your consideration, and hope for the enactment by you, of a code of banking laws upon an absolutely safe foundation, and forever relieve the depositors from unrest and doubt, as well as from actual loss. . .

In accordance with the provisions of section 1, article 14, of the Constitution, I suggest the creation, by law, of an advisory board, called State Banking Board, to be composed of the Governor, the Lieutenant Governor, the President of the Board of Agriculture, the State Treasurer, and the State Auditor, with such supervisory powers over the banking department and the acts of the Bank Commissioner as may not be in conflict with the provisions of the Constitution." Dec. 2, '07

f **R. I. Higgins.** "At the last session of the Legislature a commission of five was appointed to consider and prepare a law covering this subject [supervision of banks]. The commission has performed its work diligently and thoroughly, and is now almost ready to report. . . But however farsighted and sound may be the legislation adopted, it will be of no value unless it is enforced by a competent, energetic, and upright bank examiner. . . [The] greatest of care, therefore, must be exercised in the selection of this official. It is not the proper subject for the recognition of political services rendered to any party or to any clique. The person selected must be a man entirely free from obligation to any of the individuals or corporations whose actions he would be expected to supervise. He must be a trained financial man, knowing the banking business thoroughly, the values and conditions of securities and investments of every kind. He must be a man possessing the courage to take strong and determined action in the face of business, political, or other attractions. I, therefore, recommend most heartily a careful and thorough consideration of the commission's report, which will be submitted in a short time, and the enactment into law of an approved, modern and strong, but fair, bank examiner's act." Jan. 10, '08, p.4-5

g **Va. Swanson.** "The state banks of Virginia had on deposit the 22d of August, 1907, \$49,131,750. These banks, chartered by Virginia, having on deposit and thus holding in trust this vast sum of money belonging to the people, should be subjected to laws confining their operations within safe and conservative limits, and should be regularly examined by capable and honest officials so as to ascertain whether or not they are solvent, whether their capital is impaired, and whether the laws controlling them are obeyed. Banks that are solvent and properly run should not object to this. Those that are not should have this inspection forced upon them, whether they desire it or not. But the laws governing state banks should not in some respects be as rigorous as, nor similar to, those enacted by the federal government for the control of national banks. State banks occupy many fields of usefulness, perform much good service, and extend accommodation to a large class of good and solvent customers debarred under the federal system. . . ." Jan. 8, '08, p.13

## Deposits

- a **Kan.** Hoch. "The events of the last few months throughout the entire country have emphasized the need of some banking legislation that in times like these shall inspire increased confidence in depositors and prevent the unnecessary hoarding of money by banker and people alike. . . . Statesmen and financiers are everywhere seeking cause and cure. An asset currency, a more flexible system of finance, an increase of circulating medium through otherwise unnecessary bond issues, and various other remedies, have been suggested by the savants, but with remarkable rapidity the thinkers are turning to the simple remedy known as the depositors' guaranty fund proposition, and partly to consider this specific proposition you have been assembled in extraordinary session. . . . A depositors' guaranty law, it is believed by many of the ablest financiers, will give depositors perfect confidence in banks and permit the bankers to liberate these hoarded millions into the channels of commerce, where they are greatly needed. This guaranty proposition is a simple and fundamental one. When the individual borrows money from a bank he is properly required to give satisfactory security for it. When he loans his money to the bank, which he does when he makes a deposit, why is he not also entitled to ample security? He has the security, of course, which the character of the bank and its managers and certain provisions of the law give him, but this is not sufficient. . . . Several measures of this kind guaranteeing deposits in national banks are pending in Congress. . . . Should Congress pass a depositors' guaranty law, it would, of course, relate only to national banks, and in Kansas would benefit only 200 of our 900 banks, while the proposed state law would include national as well as state banks. . . . It is my desire that both national and state banks shall equally share the benefits, and it goes without saying that any law enacted should contain this provision. Let the participation under this law be voluntary, but let it apply to all banks, both national and state. . . . Some plausible and sincere objections are urged to this proposed law. . . . The chief contention is that guaranteeing deposits will put poor bankers and good bankers upon a common level and make the good responsible for the bad; that it will multiply wildcat bankers and contribute to loose banking methods. I think it would do the very reverse of this. It would make such a community of interests between the bankers that they would help to see to it that every needed safeguard was thrown around the banking business, that all loose methods were eliminated, and that the banking laws would be strengthened in every possible way, because it would be to their interest to do so. . . . But, in addition to this, a further safeguard has been suggested, which seems to me eminently wise, by providing in the law that all deposit drawing over 3% interest—or any other fixed per cent which you may think wise—should not be protected by this guaranty fund. This limitation would prevent the wildcat



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banker from taking interest-bearing deposits away from his competitor by offering a higher rate of interest than his conservative competitor would give." Jan. 16, '08, p.5-9

- b La.** Blanchard. "Experience of the operation of the act of 1874 [rel. to uncalled-for bank deposits] would suggest certain amendments. The period of three years, after which the publication is to appear, is somewhat short. This should be substituted by five years. These lists should be published as required by statute for five consecutive years, before any proceeding is taken by the state for the recovery of the abandoned fund as a vacant succession, and a presumption of death should then arise. This will give a lapse of ten years from the last time that the owner has been heard from. This list should be made, not by the bank, but by the State Bank Examiner, and should be published by the state at the expense of the state, and the act should have effect in all the parishes of the state.

The Public Administrator, in his official capacity, should administer on each of these funds. There should, however, be no inventory or appraisement required. An attorney should be appointed to represent the absent heirs, at a fee that should be fixed at not more than \$10, provided, of course, that should he find the heirs, or the owner of the fund, and thus recover it, his right to claim a fee as against those parties should be reserved. The fee of the Administrator should not exceed 5% on the amount so recovered, and of his attorney, 10%, provided that in no case should either fee be less than \$5. No costs of court should be required to be paid in such matters. It is absurd that the state should have to pay out to the clerk of court some \$7 or \$8 costs in order to recover \$10 or \$15 of its own funds.

A slight difference should be made in regard to deposits of savings banks. Frequently these deposits are made for the very purpose of their remaining untouched and at interest for a long period of time, particularly when they are in favor of minors. As to such deposits in savings banks, it should be required that the depositor state the age of the minors in whose favor the deposits are made, which age should appear on the books of the savings bank where the deposit is shown, and the period of publication should begin five years from the date of the majority of the beneficiary of the deposit, and, thereafter, the deposit should be governed as other deposits are by the act. This would safeguard the rights of minors, both as against the state and as against the banks.

The objection based on the dislike of depositors to the "publicity" in regard to these ten-years abandoned deposits can be overcome by the banks themselves sending the last known address of depositors a notification of the impending publication. Yearly compliance will reduce the lists to very small dimensions."

May 12, '08, p.52-53

- c Okl.** Haskell. "The State Banking Board, within 30 days



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after the passage and approval of the necessary legislation, [should] be authorized and required to levy an assessment upon each and every bank subject to the provisions of the banking laws of this state, equivalent to 1% of the deposits of such bank. Said assessment to be collected by the Bank Commissioner in such instalments, and at such times as the State Banking Board may direct. The amount so collected to constitute a reserve fund to be known as the depositors' guaranty fund, for the protection of bank depositors in such of said banks as may thereafter become insolvent. . . After the collection of said 1%, and for the purpose of maintaining said depositors' guaranty fund at a sum equal to said original collection of 1% after the liquidation of the liabilities to depositors of any defaulting bank, said State Banking Board shall be authorized and required from time to time to levy and collect such additional assessments as may be necessary to maintain said fund unimpaired, so that the same shall at all times be equal to 1% of the total deposits in all banks which may be entitled to the benefit of said fund. In the event of the payment out of said fund to the depositors of any defaulting or insolvent bank, the state shall have a first lien, for the benefit of said depositors' guaranty fund, to the extent of such payment, upon all the assets of said bank; all statutory liabilities of stockholders and directors of insolvent banks may likewise be enforced by the state for the benefit of said fund. The provisions of this section shall apply to all banks organized or existing under the laws of this state, and to national banks which may voluntarily apply in writing to, and be approved by, said Banking Board for the benefit to their depositors of the provisions of this section, and contract to pay such assessments for the purposes aforesaid, as may be levied upon them under the provisions hereof. Provided, however, that wherein any of the provisions of the banking laws of this state as to examination, reserve fund, liquidation, or other provisions, shall conflict with the laws of the United States as to national banks, that in such case the national banks shall be deemed to have complied with the provisions of the laws of this state upon their compliance with the laws of the United States."

Dec. 2, '07

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**Loans. Investments**

- a Okl. Haskell. "The loaning of funds of a bank to any stockholder, director, or other officer, in excess of the limit authorized by law, should constitute a crime under the laws of this state on the part of the borrower and of the officer authorizing the loan and be punishable as in case of larceny of a like amount." Dec. 2, '07

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**Officers. Meetings**

- a Okl. Haskell. "Any director, or other officer, of any bank, may be removable from office for incompetency, dishonesty, or

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violation of the banking laws of this state on recommendation of the Bank Commissioner, approved by the State Banking Board."

Dec. 2, '07

- b Okl. Haskell. "No person should be qualified to act as director of any bank in this state unless he is the bona fide owner of at least five hundred dollars par value of fully paid stock of such bank, and the directors' liability should be the same as that of directors of national banks."

Dec. 2, '07

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### Reserve. Surplus

- a N. J. Stokes. "The recent financial stringency taught one important lesson: the necessity of sufficient and available banking reserves. All institutions that do a banking business, no matter what their title may be, should have their resources in available form to meet the possible demands of their depositors. Our present state law provides a reserve of 15% of 'immediate demand liabilities' and 'demand liabilities.' The terms 'immediate demand liability' and 'demand liability' constitute a limitation that could be wisely amended in the interests of safe banking. A reserve of 15% upon all liabilities without restriction as to their nature is a safer provision."

Jan. 14, '08, p.51-52

- b Okl. Haskell. "The reserve required under the present law, I recommend, should be increased in all cases where the deposits exceed double the amount of cash capital and surplus of the bank. That this increase should be an additional 10% on all such excess of deposits. No deposit of any bank, operating under the laws of this state, should be counted as reserve unless held by a reserve agency, approved by the Bank Commissioner and State Banking Board."

Dec. 2, '07

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### Trust and safe deposit companies

- a Mass. Guild. ". . . Foreign banking corporations doing a savings bank business here were also compelled to invest such deposits under the same laws that cover the investments of our Massachusetts savings banks. I believe that the depositor of savings should receive uniform treatment, no matter where his savings are deposited, and therefore recommend to you that this same principle should be extended to trust companies doing a savings bank business. . . Such restrictions should extend only to that department of a trust company devoted to savings. . ."

Jan. 2, '08, p.6-8

- b N. J. Stokes. ". . . There is, it is true, a distinction in the business of banks and trust companies, but in so far as they both do a banking business, the same regulations and rules are justly and equally applicable. If the safety of the depositor and the public require in one case a limitation in the amount of the loan made to any single individual, firm or corporation, the same rule of safety should be applied in the case of other institutions doing a banking business."

Jan. 14, '08, p.52-53



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**Savings banks**

- a U. S. Roosevelt. "I commend to the favorable consideration of the Congress a postal savings bank system, as recommended by the Postmaster General. The primary object is to encourage among our people economy and thrift and by the use of postal savings banks to give them an opportunity to husband their resources, particularly those who have not the facilities at hand for depositing their money in savings banks." Dec. 3, '07, p.36-37
- b U. S. Roosevelt. "Moreover, action should be taken to establish postal savings banks." Mar. 25, '08, p.6

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**Investments. Reserves**

- a N. J. Stokes. ". . . A reserve of 5% should be the minimum in the case of these institutions [savings banks]. If it were larger it would be safer. Then in case of a sudden call they would have available means, either in their own vaults or on deposit with their reserve agent, to meet the demands without being compelled to sacrifice their securities in a falling market." Jan. 14, '08, p.52

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**Insurance***See also 500, Corporations*

- a Ga. Smith. "Our banking laws are defective. . . While our insurance laws are not so defective, yet there is substantial room for improvement, and they ought to be modeled after those systems of insurance laws which have been tested by experience and have been proven to be effective. This is a work too extensive for the ordinary service of a legislator. . . My own suggestion would be that two commissions be appointed, consisting of three members each from the present Legislature, one of whom will be in the next Senate and two of whom will be in the next House. These respective subjects might be referred to these commissioners with the duty of working out legislation to be submitted a year hence." June 24, '08, p.22-23

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*State departments*

- a Ga. Smith. ". . . I recommend also for the consideration of the Legislature the creation of a distinct office of Bank Examiner and a distinct office of Insurance Commissioner." June 24, '08, p.21-22

1741

**Deposit of security. Reserve**

- a La. Blanchard. "If the companies are not required to invest part of the reserve from Louisiana policies, in Louisiana securities, or property, then I suggest that every foreign life insurance company doing business in Louisiana be required to make a deposit in Louisiana securities, to be approved by the State's Insurance Commissioner, of not less than \$10,000, nor more than \$100,000, according to the amount of business done by the company." May 12, '08, p.48



1743 **Dissolution. Insolvency**

- a N. Y. Hughes. "I can also call your attention to the advisability of providing for the liquidation under the supervision of the Superintendent of Insurance, of insolvent insurance corporations in the same manner as is proposed for the liquidation of banking institutions." Jan. 1, '08, p.11

1747 **Investments**

- a La. Blanchard. "This is objectionable, and you should supply a remedy. You can so legislate that Louisiana money paid for insurance on the lives of Louisiana people shall, after meeting Louisiana current death losses and contributing proportionately to general home office expenses, be returned to Louisiana for profitable investment in Louisiana property and security. And the agreement to do this should be made the condition upon which life insurance companies are permitted to do business in the state." May 12, '08, p.46-47

1750 **Officers**

- a La. Blanchard. "And still another, likewise recommended, is one prohibiting such companies from paying any officer, a salary in excess of \$50,000 annually." May 12, '08, p.47

1764 **Fire and other casualty**

*See also 2603, Fire departments*

1769 **Policies. Rates**

- a N. Y. Hughes. "The need of improving the standard form of fire insurance policy has been urged, and I present the subject for your consideration." Jan. 1, '08, p.11

1770 **Mutual companies**

- a W. Va. Dawson. "By the enactment of the insurance laws at the last session of the Legislature, it was made impossible for the farmers' coöperative fire insurance companies to continue doing business in this state because they could not put up the guaranty fund required of fire insurance companies. I think these insurance companies should be encouraged. My attention was called to this by officers of these companies, and after consulting with the insurance commissioner I placed in my proclamation the 23d item as drafted by the commissioner. These insurance companies and fraternal beneficiary societies should be placed under proper supervision." Jan. 28, '08, p.10-11

1795 **Surety and guaranty companies**

*See also 1698, Trust companies*

- a W. Va. Dawson. "Necessity for the amendment of the law for the examination and supervision of trust, guaranty, surety or

1795

bonding companies arises because it is not clear under the present statutes whether certain of these companies are subject to examination by the insurance commissioner or by the commissioner of banking, and so a certain class of those companies have not been examined at all." Jan. 28, '08, p.10

1800

## Navigation. Waterways

*See also* 1384, Canals

1803

### Harbors

- a N. Y. Hughes. "There is a board of nine port wardens of the port of New York who on request make examinations or surveys of property damaged on board of vessels, recording the results, of which they are authorized to furnish official certificates. They also have supervision of Hell Gate pilots, holding examinations, making recommendations for appointments, and establishing regulations. Assuming that it is advisable to continue the office for the purpose of furnishing official certificates of surveys of vessels, it is apparent that the board as now constituted is unnecessarily large. There is not sufficient work to engage the attention of the present number. I recommend that the board of port wardens be reduced to five members, which will answer all purposes, even if jurisdiction over pilots be retained. But this it would seem might well be vested in the Board of Commissioners of Pilots to which the Sandy Hook pilots are subject." Jan. 1, '08, p.27'28

Recommendation renewed.

Apr. 9, '08, p.4

1804

### *Wharves. Docks. Piers. Wharf lines*

- a La. Blanchard. "In the further prosecution of its plans the Board [of Commissioners of Port of New Orleans] expects to expend in the next five years about \$2,500,000 more. To enable the board to do this, its bond issue of \$2,000,000, authorized by act 44 of 1904, must be made available, and to make same available it is found necessary, or at least advisable, to give the bonds constitutional sanction. I, therefore, recommend and urge upon you to submit to the qualified electors, at the election this fall, a constitutional amendment covering the case." May 12, '08, p.34-35

1805

### Improvement of waterways (general)

- a Ill. Deneen. "In my message conveying to your honorable body the report of the Internal Improvement Commission, I had occasion to dwell upon the peculiar interest which our own state has in the development of our inland navigation system. . . I, therefore, take this occasion again to recall to your consideration some of the facts which make your action on this matter at the present session of vital importance to our state. Illinois is in the position of greatest advantage in respect to a trunk waterway,

1805

which shall extend 3300 miles through the heart of our agricultural and industrial resources, from the Gulf of Mexico to the Gulf of St Lawrence. . . We can utilize the middle and higher stages of the Mississippi, pending the time when works shall develop a continuous depth throughout the year. We can extend into and through our state a scale of navigation which shall be developed into the lakes from the Atlantic seaboard. In the development of the deep waterway Illinois has paramount advantages and so many collateral benefits that the waterway comes almost as a by-product. Sanitary utilities of the large flow of water to Chicago and to the Illinois valley can not be estimated. In comparison with other means of sewage disposal, it represents a very great sum. The water power, when fully developed and marketed, will be worth, as a going concern, nearly the entire cost of a waterway through the state. The lands that may be incidentally reclaimed will be worth a very large fraction of such cost. . . I am particularly impressed with the idea that these water powers should be developed under such conditions that the surplus revenue therefrom shall, in part constitute a waterway fund for the development of a waterway primarily, and later for laterals, and I trust this matter will receive your earnest consideration. I think also that the state will be in much better position to secure federal assistance if it clearly defines the work which is to be done by the several state agencies and the use to be made of the state property in connection therewith. . . In view of our position, both physical and political, it devolves upon Illinois to define her division of the great water route upon the largest scale of depth practicable, and to provide for such work and such control thereof as will disarm criticism and satisfy the country that she has performed her just proportion. With such legislation, I believe we can expect every assistance desired from the general government."

Oct. 8, '07, p.1-3

b **Ill.** Deneen. ". . . During your last session an appropriation of \$20,000 was made for the continuance of the work of the Internal Improvement Commission, but no legislative action was taken correspondingly extending the term of the commission. The Attorney General has rendered me an opinion that the term of the commission will expire by limitation of time in February next. I, therefore, call the matter to your attention in order that you may take such action that the appropriation may be utilized and the important work of the commission continued." Oct. 8, '07, p.7

c **La.** Blanchard. "Louisiana has a vital interest in the success of the great project known as the Lakes-to-the-Gulf ship channel, and should give every encouragement to the undertaking. Our sister state of Mississippi recently took action along the line of authorizing the counties of that state bordering on the river to make appropriations for aiding the Lakes-to-the-Gulf Deep Waterway Association. I recommend the parishes in Louisiana fronting the river be given the same authorization, and I suggest, further,



1805

that you memorialize Congress urging the adoption of the project as a national undertaking." May 12, '08, p.81

- d U. S. Roosevelt. ". . . Our great river systems should be developed as national water highways; the Mississippi, with its tributaries, standing first in importance, and the Columbia second, although there are many others of importance on the Pacific, the Atlantic and the Gulf slopes. The national government should undertake this work, and I hope a beginning will be made in the present Congress; and the greatest of all our rivers, the Mississippi, should receive especial attention." Dec. 3, '07, p.27-28

- e U. S. Roosevelt. "Ample provision should be made for a permanent Waterways Commission, with whatever power is required to make it effective." Mar. 25, '08, p.6

1826

## Agriculture

*See also* 956, 1466, Adulteration; 1144, Communicable diseases of animals; 1474, Fertilizers

- a Okl. Haskell. "In view of the extended duties and larger area under the administration of the State Board of Agriculture, I recommend that in addition to the compensation already provided by law, that the compensation of the president of the Board of Agriculture shall be increased to a total of \$6 per day for the time which he may actually devote to the duties of that office, and that the limitation of the 20 days' service during the year, shall not apply to the president of the board." Dec. 2, '07

- b P. R. Post. "A campaign of agricultural instruction should be made in the island. Experts should be employed to give personal instruction to our farmers as to the best methods of destroying plant diseases and insects, giving advice on the more modern and improved methods of cultivation. The information which has been obtained by the Experimental Station at Mayagüez should be promulgated more widely throughout the island, and the most effective method is by personal instruction." Jan. 14, '08, p.50

1828

## Experiment stations

- a Ga. Smith. ". . . It would be wise to consolidate the experimental station now at Griffin with the State College of Agriculture. It would be only fair to Griffin that some recompense be given in return for the liberal subscriptions made by her citizens if the experimental station is removed to Athens. A 12th agricultural and industrial school might be situated at Griffin. . ."

June 24, '08, p.32-33

- b O. Harris. "The state appropriations the past year assisted the Ohio Agricultural Experiment Station at Wooster materially in extending its work, but the Board of Control reports that its revenue falls far short of the demands of the agricultural, forestry and other allied industries, and it asks for increased appropriations for the continuation of its present operations and for work

1828

along additional lines. The station, by testing and showing which varieties are most productive, has increased the yield of wheat in Ohio and is now ready to improve the quality without any sacrifice of productiveness. The state associations of millers and grain dealers ask provision for experiments in milling and in baking and for regular tests in corn breeding. The Ohio Dairy Association requests an appropriation for a model dairy barn. The latter might render valuable assistance to the state institutions as well as to the dairy interests. I desire to call your attention especially to the work in the maintenance of soil fertility on which the future of agricultural interests in Ohio depends and to the fact that this problem can not be solved for the entire state by work limited to any one, two or more soil formations; also to the condition that the same soil is constantly changing in character. . . . There are many recommendations made by this board for an enlargement of its work that are worthy of your careful consideration."

Jan. 6, '08, p.23-24

- c P. R. Post. "The Agricultural Station at Mayagüez stands greatly in need of buildings to carry on its work. The United States government pays all the expenses of maintaining and equipping experiment stations, but the states and territories in which they are located must provide lands and buildings. When the station was established, the insular government purchased for its use a plantation in Mayagüez, upon which were some old buildings, entirely unfitted for the work, and the station needs a new building for laboratory work. A proper building could be constructed for about \$20,000, which would provide for the needs of the station for many years to come. . . . "

Jan. 14, '08, p.50

- d Va. Swanson. "I wish to call your attention to the great advantages which would accrue to the agricultural interests of the state if the convict farm, in addition to the purposes for which it is now used, were also utilized to make experiments in agriculture. The farm contains every variety of soil and conditions existing in Virginia. It has an abundance of labor and every facility for making accurate, prolonged, and scientific experiments. Under proper direction it could be made one of the best and most successful experimental farms in the nation. This could be accomplished with very little additional expense to the state. The results of the experiments made could be published and distributed free under the direction of the agricultural department of the Virginia Polytechnic Institute. . . . Not only would the benefits be great to the state, but also to the convicts themselves."

Jan. 8, '08, p.12

1835

## Associations. Fairs

1840

### State associations and fairs

- a N. Y. Hughes. "The services of the State Fair Commissioners have been rendered without compensation and are deserving of grateful appreciation. As the fair assumes larger proportions it



1840

is necessary, however, to consider improvements of the system of administration. The question is presented whether it will not be in the interest of the state to reduce the commission to a small number with some provision for compensation." Jan. 1, '08, p.21-22

1844

## Horticulture. Diseases and pests

*See also* 1630, Encouragement of industries

- a La. Blanchard. "The Crop Pest Commission is doing a good work in the state. It should be continued in existence and adequate appropriation made to enable it to prosecute its labors."

May 12, '08, p.81

- b P. R. Post. "We already have quarantine against the introduction of diseases affecting certain of our crops. This law does not protect cocoanuts, and as there is a disease prevalent in some of our neighboring islands which destroys this valuable crop, provision should be at once made for its protection."

Jan. 14, '08, p.49

1875

## Domestic animals

*See also* 961, Milk and milk products; 1144, Communicable diseases of animals

1877

## Running at large

- a Okl. Haskell. "In many parts of the state there are large areas of unfenced and unoccupied land, and where the people of the community desire to permit live stock to run at large. I recommend the adoption of a law that will permit the people of any community in some proper way to deal with this question and permit the live stock in that locality to run at large, or to be herded, as a fair majority of the local citizens may determine." Dec. 2, '07

1888

## Dogs

- a W. Va. Dawson. "Much opposition has arisen to the 'dog law,' contained in chapter 14 of the acts of the special session of 1907. This is a very difficult subject to deal with, because men love their dogs next to their children. I think there is no objection to the provision allowing owners of dogs to list them as personal property and extending to such dogs the protection of the law; but I recommend that the other features of the law be made optional in each county. It is said that many counties will not adopt this law because a majority of the people are opposed to it, and that it ought to be the policy of the state to encourage the raising of sheep. This may all be very true, but I know of no way at all of forcing upon the people a law to which they are decidedly opposed. In such a case education should precede legislation."

Jan. 28, '08, p.11

1889

## Dog tax

- a Ky. Willson. "I do ask you to repeal the dog tax law."

Jan. 7, '08, p.18



1890

## Forestry

- a **Ala.** Comer. "There is a general fear that under present conditions the timber lands of Alabama will soon be consumed. It has been suggested that remedial forestry legislation should be enacted to prevent this result. Such legislation will undoubtedly be of great advantage to the future of the state, as well as to the owners of our vast timber interests." Nov. 7, '07, p.3-4
- b **La.** Blanchard. "I would suggest that the subject of forest preservation in Louisiana be given in charge of a committee of your body—say three members—to look into during the interval between the two regular sessions of this General Assembly, and make report thereon at the session of 1910, together with the draft of a bill to cover recommendations made. Such a committee would have time to look into the forest conditions of the state, study the forestry laws of other states, confer with the United States Forester at Washington, and frame a practical forestry law for Louisiana. Meanwhile, a law should be passed now preventing the indiscriminate cutting of trees by timbermen and requiring culling as hereinbefore set forth. . . If a committee be appointed as suggested, its members might take into consideration the advisability of so amending the State Constitution as to permit a low valuation, or a rebate of taxes, or exemption from taxation on woodland dedicated for a period of years to reforestry." May 12, '08, p.43-45
- c **Md.** Warfield. "This [the State Board of Forestry], although one of the newest departments, has already accomplished a work sufficient not only to justify its existence, but to call for increased support. Any legitimate action that can be taken to bring about the economical use of our natural resources should be encouraged. Our forests have been one of our greatest assets, and rightly used will continue to be a great source of revenue to the people of the state." Jan. 1, '08, p.63
- d **N. Y.** Hughes. "During the past year 46,156 acres of forest land have been purchased and contracted for by the land purchasing board, making the total land held by the state 1,518,450 acres, of which 1,454,383 acres are in the Adirondacks and the remainder are in the Catskills. It would be difficult to name any matter of greater importance to the people than the conservation of our forests. To this end the state should largely extend its purchases and so far as possible avoid the increased cost which will be entailed by delay. Any effort on behalf of private interests to invade the common right in these lands and their maintenance for the public benefit should be defeated. Not only should the state extend its holdings, but there should be suitable replanting to repair the extensive ravages which have taken place in our forest domain. Progress has been made in this work. Next spring there will be ready for removal from the state nurseries to the field about

1890

550,000 trees of which 458,000 will be four years old and 92,000 three years old; 1,693,000 trees remain in the nurseries. In comparison with what has been done elsewhere in this country, the state has reason to be proud of what has been accomplished. But the work should be conducted upon a much larger scale. The state can produce these trees (pine and spruce) for about \$2.50 a 1000, and two men can plant about 1400 trees a day. Our citizens should also appreciate the importance of tree planting upon their nonarable lands. It may be well that in view of the state's facilities, the forest, fish and game commissioner should be authorized to furnish from the nurseries pine and spruce trees to be planted under the supervision of the department, at a sum equivalent to the cost to the state; and I submit this question for your consideration."

Jan. 1, '08, p.24

- e O. Harris. "The forests in Ohio are disappearing. Unless some protection is given, they will soon pass away. If our State Constitution would permit a low valuation or a rebate of taxes on woodland dedicated for a period of years to reforestry, it would give encouragement. Last year Iowa provided by law for forest reservation in private ownership of land, which was subject to restrictions in cutting trees and grazing, and to be assessed at \$1 per acre. The Pennsylvania Legislature passed a law rebating for 35 years 95% of the taxes on woodland. Connecticut, New Hampshire, Colorado, Indiana, Maine, Rhode Island and Wisconsin have also enacted laws reducing taxation to encourage the growing of forests. I suggest that article 12 section 2 of our Constitution be amended so the Legislature can give encouragement to reforesting our denuded lands and protecting existing forests by reducing or omitting the taxes thereon. In many parts of the state the growing of trees, as the growing of corn and wheat, would have a commercial value. The Experiment Station at Wooster has commenced the encouragement of planting along this line. Since 1904 it has sent out more than half a million seedling trees to 466 farmers in 84 of the counties of the state. The station has also taken up the work on lands of the state occupied by the Boys' Industrial School near Lancaster, where it found several hundred acres of second growth forest now in good condition for the experiment. I highly approve of the interest the Board of Control of the Experiment Station has taken in this work and recommend further encouragement to the people in forest growing."

Jan. 6, '08, p.25-26

- f P. R. Post. "The forest growth of the island should be protected. The deforestation of our mountains is seriously affecting our water supply, and millions of gallons of water needed for our crops are going to waste after every rain; this water would have been stored for our use by the mountain forests, had they been spared. Especially should the trees be protected along the banks of streams, to avoid undue evaporation."

Jan. 14, '08, p.50



1894

### Forest preserves

- a U. S. Roosevelt. “. . . We should acquire in the Appalachian and White mountain regions all the forest lands that it is possible to acquire for the use of the nation. These lands, because they form a national asset, are as emphatically national as the rivers which they feed, and which flow through so many states before they reach the ocean.” Dec. 3, '07, p.33-34
- b U. S. Roosevelt. “Forest reserves should be established throughout the Appalachian mountain region wherever it can be shown that they will have a direct and real connection with the conservation and improvement of navigable rivers.” Apr. 27, '08, p.2

1900

### Game and fish

- a La. Blanchard. “I would suggest that you direct the Secretary of State, or authorize the Audubon Society of Louisiana, to prepare a statement of the game and bird and fish laws of the state, with other information pertinent thereto, and publish same in pamphlet form for general and gratuitous distribution, the expense of same to be paid out of the aforesaid fund in the treasury, not to exceed \$1000 per year.” May 12, '08, p.55
- b Md. Warfield. “I am still of the opinion that the State Game Warden's duties should be limited to that of protecting game; the protection of fish should be under the jurisdiction of the Fish Commissioners. . . Measures to preserve the game of the state should receive your consideration.” Jan. 1, '08, p.38
- c N. Y. Hughes. “For some years about 40 statutes have been passed annually to amend the forest, fish and game law. Last year there were 24 amendments, and more than 30 additional bills, among the 31-day bills, failed for want of approval. No sufficient reason appears for such a volume of legislation upon this subject. I recommend that the forest, fish and game law be carefully revised. It should be possible in the light of experience and with accurate knowledge of the needs of the various localities, to provide a code which will be fairly permanent.” Jan. 1, '08, p.24-25

1906

### License to hunt or fish

- a La. Blanchard. “Our present game laws require nonresident hunters, coming into the state to hunt, to pay a license. Many of our people believe this should be extended to residents of the state who hunt. It is thought that to require every one who hunts to pay a license or game tax would be very effective in protecting the game.” May 12, '08, p.55
- b N. Y. Hughes. “I recommend the enactment of a license law providing reasonable license fees for hunting, with a suitable scale for residents, nonresidents, and aliens. The advisability of providing restrictions with reference to the carriage and possession of firearms, except during stated periods or under specified con-



1906

ditions, should also be considered. Such measures I believe would have the support of all those who are interested in the protection of game; and there is also presented the necessity of devising means to prevent the indiscriminate destruction of bird life which, through the consequent prevalence of insects, constitutes a serious menace to our agricultural interests." Jan. 1, '08, p.25

- c O. Harris. "The belief of the [Fish and Game] Commission is that an income from a fair and equitable hunters license law would give sufficient funds to carry on the work in every part of the state and make the department self-sustaining. Many states have such a law and it is very satisfactory. I believe this plan for raising the necessary revenue for this department would be well received by the people of the state, and I, therefore, recommend it for your careful consideration." Jan. 6, '08, p.22

1909

## Game

General laws are put under 1900. *See also* 1856, Noxious animals

1947

## Game birds

1950

### *Gallinae*

Black game, capercaillie, grouse, partridge or ruffed grouse, pheasant, prairie chicken, ptarmigan, quail, sage fowl, wild turkey

- a La. Blanchard. "One of the several changes needed in the law for the protection of game birds is to reduce the number of quail any one hunter is permitted to kill in a day's hunt from 25 to 15 or 20." May 12, '08, p.56

1959

## Fish

2000

## Shellfish. Miscellaneous

2001

### STATE DEPARTMENT

- a N. J. Fort. "There are three Oyster Commissions, with a Bureau of Shell Fisheries, costing the state for the salaries of the commissioners, and other expenses, about \$27,000 per year. There are 10 commissioners and one chief of bureau, all salaried. There seems no business reason why they should not all be grouped together under the title of the 'Oyster and Shell Fish Department,' with a single commissioner to direct the whole work, at a greatly reduced cost to the state." Jan. 21, '08, p.17

2009

## Lobsters

- a Mass. Guild. "I recommend the passage of a law permanently prohibiting the use of lobster pots with rings large enough to permit the entrance of lobsters of the breeding age. It may also be necessary to establish temporarily a close season for all lobsters. It is almost impossible to prevent the catch and sale of lobsters

2009

by a test based on size. It is easily possible to enforce the use exclusively of lobster pots or traps having a ring permitting the entrance of no lobster larger than a certain size established by law.”  
Jan. 2, '08, p.16-17

2011

### Oysters

- a **Va.** Swanson. “The fish and oyster interests, have, in the past year, brought in to the state a direct revenue of \$100,000 (through an expenditure of less than one third of that sum), not including the taxable values and material wealth resulting indirectly therefrom. It may possibly be well to consider the wisdom of the suggestion that the entire direct revenue, or a large portion thereof, collected through the state’s oyster officials, should, for a few years at least, be expended in protecting and fostering these industries. The present appropriation is inadequate to meet the demands of this growing interest.”  
Jan. 8, '08, p.11-12

2013

### Beds. Grounds

- a **La.** Blanchard. Amendment of oyster law so as to compel claimant, not the state, to initiate proceedings to determine validity of title of oyster bottoms, title to remain in state pending adjudication.  
May 12, '08, p.61-64

2020

## Mines and mining

*See also* 500, Corporations. For labor in mines *see* 2040

- a **La.** Blanchard. “I renew the recommendation made in 1906 for the enactment of laws adapted to the mineral deposits found in our state, preventing destruction and waste and promoting the mining industry of the state. Act no. 71 of 1906 has been found inadequate. New laws on the subject are needed.”  
May 12, '08, p.79

2040

## Labor

*See also* 354, Convict labor

- a **Mass.** Guild. “The original functions of the Bureau of Statistics of Labor, as set forth in the act creating this important department—the first of the kind in the world—nearly 40 years ago, have been gradually expanded by successive legislative enactments. I recommend a codification of the numerous acts, defining its duties, and that consideration be given as to whether its field of usefulness in promoting the welfare of our people and the industrial prosperity of the commonwealth may not be still further extended.”  
Jan. 2, '08, p.39
- b **N. Y.** Hughes. “Complaint is made of the enforcement of the provisions of the labor law relating to mercantile establishments on the ground that local boards of health who are charged with the duty of inspection are not in a position to give the matter requisite attention. It is urged that better results would be ob-

2040

tained if it were committed to the State Department of Labor. I present the question for your consideration." Jan. 1, '08, p.22

- c N. Y. Hughes. "The Bureau of Labor Statistics should be strengthened so as to permit an extension of its work, and to provide for special investigations so that the facts relating to particular problems can be secured and proper measures of relief may be planned intelligently. Industrial accidents form a subject which in this way might receive needed consideration." Jan. 1, '08, p.23

- d Okl. Haskell. "I recommend the enactment of the legislation provided for in the Constitution for the protection of health, life and privileges of the laboring class, and the limiting of the maximum of hours of service upon railroad trains, examination and qualifications of engineers, conductors and dispatchers that the safety of the employees and passengers may be better assured."

Dec. 2, '07

- e R. I. Higgins. "[I recommend] a rigid scrutiny of the factory inspection laws, and careful provisions for their vigorous enforcement." Jan. 10, '08, p.24

- f Va. Swanson. "The work and usefulness of this bureau [Bureau of Labor and Industrial Statistics] can be beneficially extended. The appropriation to it should be increased so as to enable it efficiently to inspect the factories, and to see that the labor laws enacted by the state, and especially those governing the employment of children, are obeyed." Jan. 8, '08, p.11

2063

## Mines

*See also 2020, Mines and mining*

- a O. Harris. "The mining laws of the state are very unsatisfactory both to the coal miners and the operators. This condition grows largely out of the change in the last few years from pick to machine mining. The Chief Inspector of Mines, in his last annual report, says:

'The greatest increase in the percentage of fatal accidents from any one cause is that of electricity; the increase over the previous year being 66  $\frac{2}{3}$ %. . . Electricity is in general use in the mines as a motive power and over 76% of the coal produced in the state is mined by machinery. Mine operators and miners alike admit the necessity of new laws, and are anxious for the passage of them, but on account of the diversity of opinion, the varied interests and unwieldiness of the large number of persons interested on both sides, they are unable to mutually arrive at any definite conclusions. We believe a small commission, where the representatives of all concerned could be heard, and a commission authorized to advise such legislation as it deems necessary, would result in great good, and give general satisfaction to all concerned.'

. . . This is a subject of so much importance to this great industry and the men employed therein, that I heartily indorse



2063

the concurrent request of the Inspector of Mines and the coal operators of this state and recommend that authority for the appointment of such a commission be given. In view of the recent loss of life and property in the mines of West Virginia and Pennsylvania, I suggest that a law be passed at this session for the better protection of life and property in coal mines in this state."

Jan. 6, '08, p.34-35

2066

*Safety of employees*

- a **W. Va.** Dawson. "It is impracticable for the state to keep at each mine an inspector, which would be necessary if entire dependence is to be placed on the work of the state's inspectors. The cost would be too great to the treasury; the expense to the state of the present department is very considerable, amounting to about \$35,000 a year; an expense for which it would be entirely just and proper that the coal mining industry of the state should reimburse the treasury. There is not needed so much more law, as are needed means for the enforcement of the present laws, and their strict enforcement. Perhaps 'shooting off the solid' should be prohibited; supervision of firing shots should be enjoined; instruction of inexperienced miners should be made obligatory; the bosses which the law provides shall be employed at a mine, should be examined and their competency witnessed by a certificate revokable for any violation of duty, and their duties should be set out in the law in general, and set forth particularly, especially with respect to any individual mine having peculiar conditions, in rules and regulations prescribed by the State Bureau of Mines. The law makes the employment of such men obligatory upon operators; therefore, the law, as construed by our Supreme Court, relieves the operator from damages for their acts of negligence; hence, it follows that these men are public servants rather than private employees. This being so, it is altogether proper that their duties be defined as suggested, and no one in a private capacity have authority to take from or vary those duties. It should be provided that any one having a duty to perform in connection with a mine, be punished for neglect of such duty. This would include managers, superintendents, bosses, motormen or drivers, men in charge of fans, or doors, or switches; shot firers, etc., as well as miners; each should be adequately and speedily punished for any violation of the law, or of the rules and regulations applying to mines generally, or of that particular mine, or of any order issued by a superior to an inferior. It is impracticable, in my judgment, to cover all details in a statute; much discretion, therefore, must be given to the bureau of mines, with provision of protection of operators against the mistake or prejudice of the individual inspector. . . In this connection, I earnestly suggest that stringent laws be passed punishing attempts to intimidate, or assaults upon, any mine inspector, and that every inspector be made a police officer."

Jan. 28, '08, p.14-19

2085

**Hours***See also 2113, Employment*

- a **La.** Blanchard. "A law regulating the employment of child labor and that of women was enacted by the last Legislature. It limits the hours of labor to 10 hours a day, or 60 hours in the week. Those who give close attention to this subject say this is too long and urge the adoption of a 54 hour per week schedule for women and children who labor in factories, mills, clothing and millinery establishments, etc. I recommend such change in the law." May 12, '08, p.82
- b **U. S.** Roosevelt. "The Congress should consider the extension of the eight hour law. The constitutionality of the present law has recently been called into question, and the Supreme Court has decided that the existing legislation is unquestionably within the powers of the Congress. The principle of the eight hour day should as rapidly and as far as practicable be extended to the entire work carried on by the government; and the present law should be amended to embrace contracts on those public works which the present wording of the act has been construed to exclude. The general introduction of the eight hour day should be the goal toward which we should steadily tend, and the government should set the example in this respect." Dec. 3, '07, p.21

2100

**Wages**

2103

*Mode of payment: money, company stores, certificates*

- a **P. R.** Post. "There is much complaint among the laboring classes of the payment of wages by orders, or other evidences of credit, redeemable at company stores. . . In some localities some such evidences of credit may be necessary, but these should always be made redeemable in cash, at the option of the holder, and no pressure should be brought to bear upon the laborers to purchase their supplies from the company stores. The law at present does not give the required protection and a remedy for this evil should be devised." Jan. 14, '08, p.51

2113

**Employment**

- a **U. S.** Roosevelt. "A thorough and comprehensive measure should be adopted at this session of the Congress relating to the employment of women and children in the District of Columbia and the territories. The investigation into the condition of women and children wage-earners recently authorized and directed by the Congress is now being carried on in the various states, and I recommend that the appropriation made last year for beginning this work be renewed, in order that we may have the thorough and comprehensive investigation which the subject demands. The national government has as an ultimate resort for control of child labor the use of the interstate commerce clause to prevent the

2113

products of child labor from entering into interstate commerce. But before using this it ought certainly to enact model laws on the subject for the territories under its own immediate control."

Dec. 3, '07, p.23

2113(5

*Contracts*

- a S. C. Ansel. "I recommend that you pass a stringent act which will punish both landlord and laborer for a violation of a labor contract, and make it a misdemeanor for one person to employ a laborer who is under contract with another. Require that these labor contracts shall be in writing and recorded in the office of the register of mesne conveyance for the county where the parties reside, and make this record a constructive notice to all persons to the contract. . ."

Jan. 14, '08, p.5-6

2114

*Employment offices. Emigrant agents*

- a N. Y. Hughes. Recommends a commission to make "suitable inquiry into the condition and distribution of immigrants from foreign countries who are resident within this state. . ."

Apr. 9, '08, p.4

2115

*Free employment bureaus*

- a Okl. Haskell. "Also a free state employment bureau, and the regulation of private employment agencies."

Dec. 2, '07

*Unemployed, see 2158*

2118

*Children*

*See also 2270, Compulsory attendance*

- a Mass. Guild. ". . . I ask you to consider the adoption of the eight hour day for all children under 16 years of age. I also ask of you that not merely a certificate of age but a medical certificate of health shall be required before any minor is set at work at any occupation."
- b U. S. Roosevelt. "Child labor should be prohibited throughout the nation. At least a model child labor bill should be passed for the District of Columbia."

Jan. 2, '08, p.39

Mar. 25, '08, p.1

2125

**Employers liability. Insurance**

*See also 1732, Insurance*

- a La. Blanchard. ". . . The great body of our workmen are employed in the states and can get relief only through the state laws. Hence the advisability of your giving careful consideration to the question of more adequate protection through the requirements of law to this most worthy class of our citizens. All approved safety appliances calculated to diminish the risk of the service should be required by law to be adopted. All the known



methods of preventing accidents, all established checks on the work of train dispatchers, and a demand for reasonable hours of labor should be included in the safety appliance law. Where employees are overworked and their senses benumbed by loss of sleep, they are incompetent to be intrusted with the safety of human lives.

It is most desirable that the laws for the protection of workmen should be as nearly uniform as possible in all the states, so that employers in one state would not be at disadvantage in the competition for labor, which they must meet from employers in other states with less restrictive laws. Official inspection of railroads by experts in the service of the Railway Commission, with authority to correct defects and abuses of car and engine equipment, tracks, bridges and crossings, would be a boon to the traveling public, as well as to those employed in the service.

The defense of contributory negligence in personal injury suits, when permitted to be carried to the extent of barring recovery when only slight degree of such negligence is shown, often works great injustice. The law should so modify the application of the doctrine by the courts as to permit railway or other employees to recover damages for injuries if it be found that their negligence was less than that of the railroad, or employer, or than that of a coemployee contributing to the injury; and in all cases there should be submitted to the jury the question of comparison of negligence as between the railroad or employer and the injured employee, or as between the latter and his coemployee. Where the negligence of the railroad or employer contributed to the injury, should not the company bear a proportionate share of the loss?"

May 12, '08, p.53-54

- b O. Harris. "The large number of injuries to workmen in this and other states, when compared with the number of like injuries to workmen in the larger countries of Europe, indicates that less precaution is taken by our employers to protect their employees than is taken in those countries. . . It is considered by some that the most effective way to protect the workmen from injury is to increase the liability of the employer. This might add to the cost of production in a slight degree, at least, but enough to put the employer at a disadvantage if his state alone should put this restriction upon production. . . I, therefore, suggest that any proposition presented to you for your consideration looking to this end should receive your most careful attention."

Jan. 6, '08, p.36

- c U. S. Roosevelt. "Congress should adopt legislation providing limited but definite compensation for accidents to all workmen within the scope of the federal power, including employees of navy yards and arsenals. In other words, a model employers liability act, far-reaching and thoroughgoing, should be enacted which should apply to all positions, public and private, over which the national government has jurisdiction."

Dec. 3, '07, p.19-21

2125

d U. S. Roosevelt. "The Supreme Court has decided the employers liability law to be unconstitutional because its terms apply to employees engaged wholly in intrastate commerce as well as to employees engaged in interstate commerce. By a substantial majority the court holds that the Congress has power to deal with the question in so far as interstate commerce is concerned. As regards the employers liability law, I advocate its immediate reenactment, limiting its scope so that it shall apply only to the class of cases as to which the court says it can constitutionally apply, but strengthening its provisions within this scope. Interstate employment being thus covered by an adequate national law, the field of intrastate employment will be left to the action of the several states. With this clear definition of responsibility the states will undoubtedly give to the performance of their duty within their field the consideration the importance of the subject demands.

I also very urgently advise that a comprehensive act be passed providing for compensation by the government to all employees injured in the government service. Under the present law an injured workman in the employment of the government has no remedy, and the entire burden of the accident falls on the helpless man, his wife, and his young children. . . The law should apply to all laborers, mechanics, and other civilian employees of the government of the United States, including those in the service of the Panama Canal Commission and of the insular governments. The same broad principle which should apply to the government should ultimately be made applicable to all private employers. Where the nation has the power it should enact laws to this effect. Where the states alone have the power they should enact the laws. . ."

Jan. 31, '08, p.1-3

e U. S. Roosevelt. "I renew my recommendation for the immediate reenactment of an employers liability law, drawn to conform to the recent decision of the Supreme Court. Within the limits indicated by the court, the law should be made thorough and comprehensive, and the protection it affords should embrace every class of employee to which the power of the Congress can extend.

In addition to a liability law protecting the employees of common carriers, the government should show its good faith by enacting a further law giving compensation to its own employees for injury or death incurred in its service. It is a reproach to us as a nation that in both federal and state legislation we have afforded less protection to public and private employees than any other industrial country of the world."

Mar. 25, '08, p.1

2126

## Railroads

a Ga. Smith. "On April 22 of this year an act of the Congress of the United States was approved, known as the employers liability act. It enlarged the rights of employees of railroad companies to recover for injuries when employed upon trains engaged



2126

in interstate commerce. I suggest the extension of the right of this recovery to employees of railroad companies when engaged in work other than interstate." June 24, '08, p.23-24

2130

### Unions. Associations

a **La.** Blanchard. "A recent decision of the Supreme Court of the United States holds the provisions of the Sherman antitrust law to be applicable to the labor organizations of the country. An effort is being made in Congress to so amend the law as that it shall not affect the labor organizations. I recommend to you the passage of a joint or concurrent resolution memorializing Congress to pass the amendment." May 12, '08, p.80-81

b **Nev.** Sparks. "I call your attention to the necessity of a law to restrain and punish persons offering to bribe with money or other things of value with intent to influence any officer or member of a labor organization in respect to decisions or acts relating thereto." Jan. 30, '08

2134

### Labor disputes

*See also 749, Injunction*

a **U. S.** Roosevelt. "I renew my previous recommendation that the Congress favorably consider the matter of creating the machinery for compulsory investigation of such industrial controversies as are of sufficient magnitude and of sufficient concern to the people of the country as a whole to warrant the federal government in taking action." Dec. 3, '07, p.21-22

b **U. S.** Roosevelt. "It is important that we should encourage trade agreements between employer and employee where they are just and fair. A strike is a clumsy weapon for righting wrongs done to labor, and we should extend, so far as possible, the process of conciliation and arbitration as a substitute for strikes. Moreover, violence, disorder, and coercion, when committed in connection with strikes, should be as promptly and as sternly repressed as when committed in any other connection. But strikes themselves are, and should be, recognized to be entirely legal. . . The right of employers to combine and contract with one another and with their employees should be explicitly recognized; and so should the right of the employees to combine and to contract with one another and with the employers, and to seek peaceably to persuade others to accept their views, and to strike for the purpose of peaceably obtaining from employers satisfactory terms for their labor. Nothing should be done to legalize either a black list or a boycott that would be illegal at common law. . ."

Mar. 25, '08, p.5

2136

### Conciliation and arbitration

a **Nev.** Sparks. "I desire to call the attention of your honorable body to the consideration of a subject for legislative action, which has been numerous indorsed by petition from the citizens of



2136

our state, namely, an act providing for the arbitration of all difficulties and disputes between organized labor and employers, as the best means of securing permanent peace and perfect justice between employer and employee." Jan. 28, '08

- b N. J. Fort. "The Board of Arbitration as existing in our state should be abolished. It is impossible to conceive how any defense for its retention can be made. The drawing of salaries by public officials who do absolutely nothing, and can do nothing, under existing conditions, makes the payment of this money out of the state treasury, a crime against public morality. . ."

Jan. 21, '08, p.16

- c Okl. Haskell. "I recommend to the Legislature the creation of a Board of Arbitration and Conciliation authorized by section 21, article 6 of the Constitution. . ."

Dec. 2, '07

2140

## Charities

*See also* 60, State institutions; 335, Corrections

2142

### State boards and officers

- a Md. Warfield. "It has been suggested in some quarters that it would be well to increase the powers of this board [Board of State Aid and Charities] giving them supervision over all of the charitable institutions which receive state aid. I think this a good suggestion. It is impossible for the Chief Executive to keep personally in touch with all of these institutions, and the only way to do it would be through a special board of supervisors for state charities. I commend this suggestion to your favorable consideration."

Jan. 1, '08, p.51

2143

### State institutions (general)

- a N. Y. Hughes. "The charitable institutions, unlike the hospitals for the insane, are not governed by a reasonably uniform law. There is wide diversity of legal provision with reference to number of managers, their terms of office, their qualifications; their removal, and with regard to the powers of the managers and of the superintendent in relation to the appointment of subordinate officers and employees. Some institutions are required to report to the Legislature, and others to the State Board of Charities. While absolute uniformity may be impracticable, legislation should provide so far as possible for a uniform system of management. Jan. 1, '08, p.18-19

2149

## Poor relief

*See also* 2406, Pensions and relief

2158

### Unemployed

- a N. Y. Hughes. Recommends commission to inquire into the condition of the unemployed.

Apr. 9, '08, p.4

## CHARITIES

2160

### Sick and disabled

*See also 1020, Communicable diseases*

2166

#### *State hospitals*

- a O. Harris. "Six of the state hospitals request authority to purchase additional farm land and an appropriation therefor. The purchase of sufficient land, at a reasonable price, on which to maintain a dairy that would furnish milk for the inmates and to raise a large part of the products consumed in the institution, would be a good investment, in addition to furnishing healthful employment to the able-bodied inmates." Jan. 6, '08, p.8

2183

### Defectives

*See also 2220, Education*

- a La. Blanchard. "I again call attention to the fact that we have no institute, or other provision made, to teach the colored deaf and dumb and blind." May 12, '08, p.78

2188

### Blind

- a O. Harris. "A very strong sentiment exists among the people of Ohio in favor of giving assistance to needy and worthy blind persons residents of the state. Many petitions have been signed and addressed to me and the General Assembly jointly asking that some action be taken to give relief in this worthy cause. It suggests itself to me that this aid should come from the county and not from the state. The state tried the Working Home for the Blind. It failed to give relief as expected and it was abandoned. Later the Legislature authorized the payment of a pension and that was found to be unconstitutional. I suggest that the commissioners of every county in the state, where there are needy and worthy blind, be authorized by law to raise a fund by taxation to be known as the fund for the needy and worthy blind. . . ." Jan. 6, '08, p.38

2193

### Insane

*See also 60, State institutions*

2197

#### Removal from poorhouse and jails

- a Md. Warfield. "I wish to call your attention to the fact that an act passed by the Legislature of 1904 (chapter 421) directs that the state of Maryland shall 'after the first day of January, 1909, be charged with the maintenance, care, control and treatment of all dependent insane persons who are at that time residents of the state of Maryland.' The act further directs the State Board of Lunacy to transfer from the several county almshouses and county and city asylums to one of the state hospitals for the

2197

insane, such dependent insane persons who are residents of the state of Maryland as in the judgment of the said Board of Lunacy should be so removed. I doubt the feasibility of the state assuming the care and maintenance of all of her dependent insane at that time, because it will not have adequate buildings and facilities for doing so, and the state treasury will not be in a condition to bear the burden. The present law requires each county to pay for the care of its insane when committed to state institutions. The time has not come when the counties can be relieved from this charge." Jan. 1, '08, p.49-50

- b P. R. Post. "I do not feel that the government should permit dangerous lunatics to be at large, or allow them to be confined in the revolting surroundings of the municipal jails, and I feel justified in requesting a deficiency appropriation to maintain the insane asylum at its present capacity for the remainder of this fiscal year, and sufficient appropriations for the future to maintain the number of patients which we are forced to admit."

Jan. 14, '08, p.46-47

2198

#### State asylums

- a Va. Swanson. "I wish to call your attention to the necessity for a larger appropriation for the maintenance of the asylums and hospitals. The increased number of patients and the higher prices that have to be paid for food, clothing, and labor require a substantial increase of the annual appropriations, if the patients are to be properly fed, clothed, and cared for."

Jan. 8, '08, p.10

2203

#### Support. Right of admission

- a La. Blanchard. "The expense of the maintenance of the insane should not be a charge upon the State Treasury, but should be assessed back proportionately upon the parishes whence come the insane to the asylums established by the state."

May 12, '08, p.77

2205

#### Inquest. Commitment. Discharge

- a Mass. Guild. ". . . Recent terrible events consequent on the release of a homicidal maniac have, I hope, sufficed to correct maudlin sentimentality in regard to the discharge from custody of the insane. The law today requires that no person shall be put into an insane asylum without the joint recommendation of two specialists in insanity, approved by a court. I ask you that in future no person shall be loosed on the public from an insane asylum without the joint recommendation of two specialists in insanity, approved by the same court that committed him."

Jan. 2, '08, p.32-33

2210

#### Epileptics

2213

#### State asylums and colonies

- a Va. Swanson. "The next most pressing need of these institutions [hospitals for the insane] is the building of a separate colony



2213

for the epileptic patients. The segregating of the epileptic inmates from the others is demanded alike by science and a sense of humanity. Each class is unfavorably affected by the presence of the other. It is almost inhuman to compel the nervous and insane daily to witness the convulsions of the epileptics. A well and strong person would in time be seriously affected by such daily contact. The building of a separate hospital for these would occasion no additional expense to the state. Unless the epileptics are taken from the present hospitals and put in a separate one, the state will be compelled to appropriate at this session money to construct buildings to accommodate the yearly increase of patients. If the epileptics are cared for in a new and separate hospital, the accommodations at the present hospitals will be sufficient for many years to accommodate the insane."

Jan. 8, '08, p.10-11

2220

## Education. Science. Culture

*See also 2183-2218, Defectives: deaf, dumb, blind etc.*

- a Ga.** Smith. "The rural schools for whites should be greatly improved. This must be done with better schoolhouses and better teachers. About one fourth of our teaching force retires from the schoolroom each year. Our educational system should include facilities for preparing men and women to take their places."

June 24, '08, p.30

- b Ill.** Deneen. "The appointment of the commission [to study state school system and laws] was deferred because of a strong conviction which I found to exist amongst those who are deeply interested in its work, that the amount appropriated was insufficient to enable the commission to do the work outlined for it. I have also been convinced that the commission ought to be increased to 15 members in order that it may better represent the widely diversified school interests of the state, and in order that its report may reflect more fully the various needs of the different phases of our school system. I therefore recommend that you give careful consideration to the request of the members of the commission that an additional appropriation of \$15,000 be made at the present session and that provision be made for adding 8 members to the commission."

Oct. 8, '07, p.9

- c Okl.** Haskell. "I recommend that the State University at Norman, the normal schools at Alva, Weatherford and Edmond, the preparatory school at Tonkawa, and the Agricultural and Mechanical School at Stillwater be declared to be permanent state institutions of the character named, and that the Legislature provide for such additional educational institutions of like character in other parts of the state as immediate necessity may demand."

Dec. 2, '07

- d P. R.** Post. ". . . I believe that the time has come when we can increase our appropriations for educational purposes, and

2220

I trust that every effort will be made to extend the benefits of education as far as possible, and especially into those rural districts which are now totally without schools. . . . An increase in schools will mean an increase in the number of teachers, and it will mean expenditure of more money, but we must continue extending our educational system, looking forward to the time when we can give to every boy and girl on the island an opportunity for at least primary instruction. The Legislatures of previous years have always been as liberal as possible toward the needs of education, and I trust that you will give this department your first consideration in the matter of increased expenditure."

Jan. 14, '08, p.42-43

2223

## Elementary and secondary education

2228

### Officers. Boards

2229

#### *State*

- a **Ga.** Smith. ". . . I most cordially recommend legislation which will make the State Board of Education consist in a large part of teachers. If the members other than ex officio members are to be six in number, half of them should be county school commissioners or teachers engaged in rural work. Such a board wisely selected would understand the needs of our schools far better than professional or business men, legislators or State House officers. Upon this board we will have the services of our present State School Commissioner." June 24, '08, p.28-29

2230

#### *County*

- a **La.** Blanchard. "The Legislature of 1904 provided for better salaries of parish superintendents and raised the qualifications required of them. The Legislature of 1908 will contribute to the best interests of the people by raising still higher the standard of qualifications for parish superintendents. . ." May 12, '08, p.36

2233

### Buildings. Grounds

- a **Va.** Swanson. "The act permitting the loaning out of the Literary Fund, at 4%, payable in 10 years, one half of the amount necessary to construct a schoolhouse, has been productive of immeasurable good as the many excellent new schoolhouses in the state will evidence. The loans, under this act, as previously stated, are limited to \$3000, and consist of the funds accruing each year for investment. I recommend a continuance of this act as to this fund. But as the demands for loans exceed the yearly amount, and as many buildings are desired, costing more than \$6000, I recommend that an act be passed authorizing the disposal of a limited amount of the present bonds held, and the investment of the same in loans for the construction of schoolhouses, for larger



2233

amounts and longer time than at present permitted, and at rates of interest yielding as much as is at present received. No investment can be safer than these loans under the conditions now prescribed, and a wise policy demands that these funds should be thus utilized. If this policy had been pursued years ago, every section of Virginia would now be blessed with fine commodious schoolhouses.”

Jan. 8, '08, p.8

2237

## General school finance

2239

## State and local

2240

*Funds. Lands. Taxes**See also 774, Public lands*

- a N. J. Stokes. “. . . I recommend the passage of an act materially reducing the rate of the state school tax. This will not reduce the revenues of our public schools, but will reduce the bills of the taxpayer.” Jan. 14, '08, p.24
- b Okl. Haskell. “I recommend immediate legislation for the sale of school lands according to the grant under which said land was obtained by the state, and the provisions of our Constitution.” Dec. 2, '07
- c Okl. Haskell. “I recommend the enacting of such laws as are contemplated in section 66, article II of the Constitution [investment of school funds], and that the same be classed as emergency legislation, emergency in this case being that the fund now available may be offered at the earliest possible moment to the first preference class of investments, namely to the farmers of the state upon farm mortgages, the interest rate to be fixed upon this class of investments should not exceed 5% per annum. In this connection I also recommend the adoption of a law in substance as follows: First mortgages upon improved real estate within this state, and in no case above 50% of the reasonable valuation of the land, exclusive of buildings, shall be accepted as security in each case under the laws of this state where bond, guaranty or indemnity is required.” Dec. 2, '07
- d P. R. Post. “Any increased expenditure by the insular government for school purposes will naturally, under our system, entail a proportionate increase of expenditure by the local authorities. Our present revenue system provides that 15% of the tax on property now levied and collected in the island shall be retained by the insular government. . . Many of the alcaldes have recommended to me that the whole or a part of this money be devoted to educational purposes, and these gentlemen are almost unanimous in their desire that it be devoted to the establishment of rural schools. Should you feel that the insular government can, at this time, give up this amount of revenue, it might be advisable to divide it between the municipalities and the school authorities, in such proportion as you deem best.”

Jan. 14, '08, p.43-44



2242

*Apportionment*

a **Miss. Noel.** "Under our Constitution each county contributes to the state school fund in proportion to its assessment, and is repaid from that fund in proportion to the number regardless of school attendance, of its educable children. Gross injustice, calling for remedy, frequently results from this defective system. Just equalization of taxes and a distribution based on the average attendance of each county, its educational opportunities utilized, would probably correct existing disparities." Jan. 21, '08

b **N. J. Fort.** "For myself, I think it would be better state policy to repeal chapter 146 of the laws of 1906 absolutely, and leave the amount of money to be annually appropriated from the tax from railway property, at the discretion of the legislative branch of government. But that probably would not be wise policy in the last hours of the session. There is pending before the legislature at this time Senate bill no. 306, which permits the state to reserve three fourths of 1%, instead of one half of 1%, under the provisions as now provided under chapter 146 of the laws of 1906. If this bill were passed, it would increase the revenue of the state \$436,331.18 and would relieve the shortage. . . I, therefore, earnestly urge upon the Legislature the enactment of Senate bill no. 306, or some similar legislation."

Apr. 9, '08, S. J. p.877

c **Va. Swanson.** "I desire to suggest to you the wisdom of attaching to a portion of the special appropriation given to the primary schools conditions requiring a certain amount of increased local aid before its benefits can be obtained. The local authorities have not, in the aggregate, been as generous to the primary schools as the state has been. Last year the increased appropriation of the state to primary schools amounted to \$200,000, while the increased local aid amounted to only \$127,157. The appropriation to high schools was conditioned upon local aid. The state appropriated for this purpose \$50,000, and the entire local aid given for high school purposes amounted to more than \$750,000. In some cases, the increased state aid to primary schools resulted in a decreased local aid, equal to that given by the state, thus resulting in no improvement. The law should not permit state generosity to be responded to by local parsimony. If proper conditions are attached to a portion of this special appropriation, it can be used judiciously to stimulate local efforts in behalf of better salaries for the teachers and longer terms for the schools."

Jan. 8, '08, p.8

2244

**County, district and municipal**

a **La. Blanchard.** "The treasurer of the police jury of the several parishes is ex officio treasurer of the school board. For the work of disbursing the school funds these officials throughout the state receive yearly more than \$25,000. If the school boards were given the power, they could have this work done not only

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free of charge, but could arrange to derive a large profit in the way of interest on their deposits in bank. The banks of the several parishes would be glad to take the school funds on deposit, pay interest on same and also act as treasurer, paying checks as drawn on the funds. . . ." Nov. 11, '07, p.13

- b Va. Swanson. ". . . I recommend an increased appropriation for the primary and high schools. . . ." Jan. 8, '08, p.8

2246

## Negroes

- a Ga. Smith. "In developing our educational system we should not be afraid to recognize the vast difference between the white and negro races. I do not believe that the average negro receives much help by learning out of books. A large majority of the race will be found for generations capable only of manual labor. The negro child should be taught to work. He should be inspired with a desire to do that for which he can be best fitted and we must recognize the truth that labor in the field is his best opportunity. I recommend that the State Board of Education be given authority to determine what class of examinations shall be given to the respective applicants for teachers' places so that the negro teachers may be selected on account of their capacity to teach the young negroes to work, and to inspire them, if possible, with a willingness to work. I believe in practical training for all schools, but especially do I urge the importance of making the negro schools give prominent attention to labor."

June 24, '08, p.29

- b Okl. Haskell. "I recommend immediate emergency legislation carrying into effect the provision of the Constitution providing for separate schools for children of African descent."

Dec. 2, '07

2247

## Teachers

*Teachers libraries, see 2360, School libraries*

2253

## Employment. Pay

2254

## Salaries

- a Md. Warfield. "In several counties the best teachers received but little more than \$300 per year, which is far too small, considering the responsible work intrusted to them. As an incentive to those capable and efficient teachers who are making teaching their life work, the state should guarantee to them a minimum salary sufficient to compensate them for their faithful service. . . . We need the very best men and women we can get to take charge of our schools. We hear the cry on all sides for more and better teachers, and the demand has outgrown the supply, so that this is today a matter of serious concern, and the question is: What can be done to make the profession attractive, or at

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least desirable? The answer is, at least in part: Higher salaries, fair and clear civil service rules, and adequate provision for retirement." Jan. 1, '08, p.53-54

2255

*Pensions*

- a **Md.** Warfield. "Many of the states hold out more pleasing prospects for teachers, and have adopted liberal pension laws, so that after their days of usefulness are over, the teachers can look forward to retirement with a reasonable pension. I commend this subject to your consideration." Jan. 1, '08, p.54

2266

**Normal schools**

- a **Ky.** Willson. ". . . I recommend that so much of the law establishing the normal schools as allots free scholarships to different counties or districts according to the unfair districting law, be amended, and that these free scholarships be allotted according to the new districts to be provided by the Legislature." Jan. 7, '08, p.21
- b **Va.** Swanson. "Another educational need is increased facilities for institutions engaged in normal work, so that the schools may be provided with more teachers who are efficient and capable and purpose to make teaching their life profession. These institutions are indispensable to our educational system and should be sufficiently numerous to provide the schools with well trained and well equipped teachers. Our revenues are sufficient to justify us in providing at this time for at least one new normal school for the women. This school should be a large one, having a complete and thorough course. Its physical and educational limitations and proportions should be decided upon by competent authority before its growth begins, so that not a thought or dollar expended upon it may be wasted in bringing it to its ultimate ideal. It is a waste of money to have a large number of inferior normal schools. Many of the present high schools can at much less expense be equipped to do a certain amount of normal work as well as small normal schools. The high schools have eliminated any necessity that might ever have existed for the small weak normal school." Jan. 8, '08, p.9

2267

**Attendance**

**Colored pupils, see 2246**

2270

**Compulsory attendance. Truancy**

*See also 2118, Employment (children)*

- a **Ala.** Comer. "The bill providing for compulsory education, which passed the Senate and was pending on the House calendar at the adjournment of the recent session, was then, perhaps, not so well understood by the people as it is now. Since the Legis-



2270

lature adjourned, I have been through the state quite a bit and find that public interest has been greatly aroused in the cause of education. There is a deep and widespread appreciation of your large appropriations for the benefit of our educational institutions, and a general feeling that if a class of our fellow citizens are not disposed to take advantage of the liberality of the state along this line, the future well-being of the state requires a compulsory education law; that the state should exercise its power to see that every child is given some benefit from the state's bounty. I, therefore, recommend the consideration and passage of a law requiring attendance on the schools of the state and suggest that the provisions thereof should be fair and reasonable, but adequate to accomplish the important end in view." Nov. 7, '07, p.4-5

- b Md. Warfield. ". . . The time has come when a compulsory education law should be passed." Jan. 1, '08, p.53

2281

### Physical condition. Medical inspection

- a Mass. Guild. ". . . In order that every child in the public schools in every town should share the benefits of medical inspection, it is necessary that chapter 502 of the acts of 1906 should be amended by striking out those words in the seventh section of the law which limit expenditures for medical inspection to specific appropriations for that particular purpose. Healthy childhood means healthy citizenship, and no town can afford to practise false economy at the expense of the health if not of the lives of its school children." Jan. 2, '08, p.40

2282

### Textbooks. Supplies

*See also 2360, School libraries*

- a Okl. Haskell. Recommends that school officials or teachers who are representatives or agents of dealers in school books or supplies be required to give public notice of the fact. Dec. 2, '07

2288

### Curriculum

Agriculture, *see 2343*

Trades and manual training, *see 2350*

2342

### Professional and technical education

*See also 2266, Normal schools*

- a Okl. Haskell. "I recommend that section 7, article 13 of the Constitution, providing for the teaching of agriculture, horticulture, stock feeding and the domestic sciences in the common schools of the state be enacted." Dec. 2, '07
- b Va. Swanson. ". . . I favor a gradual introduction of manual training, agricultural education and domestic economy in the

2342

high schools. Our system of education should be extended and improved until the rural communities have opportunities for education equal to the cities." Jan. 8, '08, p.8

2343

### Agricultural

*See also 1828, Agricultural experiment stations*

- a **Ga.** Smith. "We ought to give to each [district agricultural] school \$10,000 to be used in equipment." June 24, '08, p.30
- b **Md.** Warfield. "The Agricultural College of Maryland views with concern the slow progress made in introducing more of the training that is necessary to bring the country child in touch with its environment. Bookkeeping, stenography, typewriting, etc., are subjects which turn the mind of the country child to urban conditions. Rural problems should claim more of the attention of the child. If this were done, the dangerous drift to the city from the country would be arrested. Some of the states of the Union have fully appreciated this thought and the current has been changed from the city to the country in these specially gifted sections." Jan. 1, '08, p.61-62
- c **N. Y.** Hughes. ". . . There is much to be said in favor of the establishment of a secondary agricultural school which would provide a suitable complement to the work of the college at Ithaca. There is a favorable opportunity for the establishment of such a school upon an economical basis in connection with Alfred University, and I submit the matter to your consideration." Jan. 1, '08, p.21

2344

### Colleges

- a **R. I.** Higgins. "The President and Board of Trustees of the State College of Agriculture have requested the erection of new buildings which will contain lodging accommodations, dining hall, assembly hall, drill hall, gymnasium and other quarters. I most respectfully submit their recommendations to you for your consideration." Jan. 10, '08, p.19-20

2350

### Technical and manual training

- a **Mass.** Guild. ". . . The State Board of Education has since planned for partial training in the mechanical and agricultural pursuits in connection with the ordinary high schools of the commonwealth. This plan traverses to a certain extent the scheme for industrial education involved in the appointment of the state commission dealing exclusively with industrial education. Legislation is necessary that there may be no further conflict of authority. The Commission on Industrial Education will pass out of existence a year hence unless legislation making it a permanent body is enacted. Mere manual training in connection with the public schools is valuable in directing the interest of the child toward its life work. It can not fully fit him for that work. If it is desired that thorough and high grade instruction in technical

## LIBRARIES

2350

training shall supplement the ordinary school instruction of the commonwealth, it will be necessary to put the Commission on Industrial Education on a permanent basis, and to give it charge of special technical schools for thorough and complete instruction."

Jan. 2, '08, p.41

- b P. R. Post. "At the last session steps were taken for the establishment of agricultural schools in various parts of the island, but the industrial schools formerly operated in five of the principal towns were suppressed for lack of appropriation. It is to be regretted that such an important branch of education should be abandoned, and I sincerely hope that you will consider the advisability of the reestablishment of these schools."

Jan. 14, '08, p.43

- c P. R. Post. "Industrial instruction in these two charity schools [Boys' and Girls' Charity Schools] should be encouraged. Domestic science should be taught the girls, and special attention should be given, in the boys school, to mechanical and free-hand drawing."

Jan. 14, '08, p.47

2352

## Libraries

2354

### State libraries

- a P. R. Post. "More attention should be given to the insular library. The extent to which this institution is patronized by the public proves its usefulness, and provision should be made for its better accommodation and enlargement."

Jan. 14, '08, p.44

2356

### Free public libraries

2359

### Law libraries

- a R. I. Higgins. "Among the many other matters deserving your immediate attention, I consider as important the matter of the State Law Library. At the present time the library consists of approximately 35,000 volumes, located in the Providence County Court House. The headquarters of the library are entirely without fireproof protection, being entirely of wood. The space reserved for the library is altogether too small to accommodate its present needs. Its patronage is continually growing, and the inadequate facilities in the line of lack of room and up to date quarters have been apparent for some time past. I, therefore, recommend for your consideration the securing of a site for, and the construction of a modern, fireproof State Law Library which will be sufficient to meet the very pressing need of the courts, the bar, and the public."

Jan. 10, '08, p.15-16

2360

### School libraries

- a Va. Swanson. "The present appropriation for traveling school libraries should be continued, but they should be placed under the control of the Department of Education. The facilities of this department for handling and distributing them are far greater



2360

than those possessed by the State Library. The state should aid in forming permanent libraries in suitable schools and I recommend limited aid from the state to them upon proper, prescribed conditions." Jan. 8, '08, p.8-9

2363

## History. Records. Memorials

2364

### Anniversary celebrations

- a N. Y. Hughes. "Fitting preparation should be made for the celebration in the year 1909 of the 300th anniversaries of the discoveries of Lake Champlain and the Hudson river. The former is an event of interstate and international importance, and a commission representing this state is coöperating with a Vermont commission in perfecting suitable plans. It is hoped that the federal government will give assistance, and that through its offices the government of the Dominion of Canada and the Republic of France will be invited to participate. In view of its far-reaching results, the celebration of Hudson's discovery should be planned upon an adequate scale and in every respect should be worthy of the state. In connection with this celebration the first voyage of Fulton's steamboat up the Hudson river will also be commemorated. This subject is in charge of a commission which is giving the matter careful attention. Suitable appropriations should be made for these purposes which can hardly fail to deepen the interest of our people, and notably of our youth, in the study of our history and to stimulate that patriotic sentiment which we should lose no opportunity to intensify." Jan. 1, '08, p.30

2365

### Archives. Records. Colonial laws

- a P. R. Post. "A small appropriation might also be made for the printing and translation of works of historical value to the island." Jan. 14, '08, p.44
- b Va. Swanson. "I also recommend that the work of collecting Confederate records, of collating and preserving the materials of our war history be continued." Jan. 8, '08, p.10

2370

## Memorials. Monuments

2376

### Memorials on battlefields. Soldiers monuments

- a Va. Swanson. "I recommend that an appropriation be made to erect on this battlefield [Gettysburg] a suitable monument to commemorate the glory and heroism of the Virginia troops." Jan. 8, '08, p.10

2379

## War records

- a O. Harris. "The department also requests appropriation sufficient to purchase and instal steel file cases, for the preservation of the valuable records of Ohio soldiers who have participated in the various wars of the Republic." Jan. 6, '08, p.31

2380

**Scientific work. Art ;**

2384

**Geology. Topography**

- a **Va.** Swanson. Recommends erection of building for permanent preservation of mineral and timber exhibit at Jamestown Exposition. ". . . In addition, I suggest that you consider the advisability of establishing a state department of mines and a bureau of state geological surveys. The mineral resources of Virginia are so varied and valuable, and possess such vast possibilities of wealth, that the state should undertake their systematic study and exploitation."

Jan. 8, '08, p.11

2388

**Military regulations***See also 2363, History, records, memorials*

2391

**Militia. National Guard**

- a **Md.** Warfield. "The Adjutant General dwells upon the necessity for a new militia law to comply with the requirements of the War Department. This proposed law must be adopted by January 21, 1908, or the state will lose its allotment from the federal appropriation made by the Dick bill. . . I commend to your favorable consideration the recommendations made by General Riggs, especially those referring to the advisability of publishing the military records and the necessity for a larger appropriation for the proper maintenance of the militia." Jan. 1, '08, p.29-30
- b **Mich.** Warner. "I also recommend that the law governing the Michigan National Guard be amended in a manner that will permit officers and privates to be remunerated for attendance upon drills and provide for state aid in the erection of armories for local organizations of the Michigan National Guard, these amendments to be along the lines of the provisions of the bill passed at your regular session and subsequently found to be fatally defective." Oct. 10, '07, S. J. p.26
- c **N. Y.** Hughes. "The commission appointed to inquire into the condition of the National Guard and Naval Militia is about to submit a preliminary report. In order to conform to the requirements prescribed for the militia by the War Department under the federal law of 1903, and in order to secure for this state its share of the appropriation made by Congress, the necessary changes in the organization of the National Guard must be made prior to January 21, 1908, when the time prescribed for that purpose will expire. A bill which the commission has prepared making the necessary changes in organization will be submitted to the Legislature with its preliminary report. While it is possible that the time may be extended by Congress, the subject is of great importance and it is desirable that action should be taken by the Legislature prior to the date mentioned." Jan. 1, '08, p.28
- d **P. R.** Post. "In anticipation of the establishment of an organized militia on the island, a number of gentlemen have formed a provisional organization which is prepared to enlist as the National Guard



2391

of Porto Rico. This matter should be very carefully and wisely considered. Undoubtedly a citizen soldiery is a valuable element in any community, and the chief reliance of the United States in times of danger has always been on her National Guards. If you deem that the time has come for the organization of such a force on the island provision should be made for its proper equipment and maintenance."

Jan. 14, '08, p.52

- e **R. I. Higgins.** "I believe that Rhode Island has not shown complete justice to its militiamen in the matter of equipment. The present uniforms are old, dilapidated, and out of date. Some of them have been worn 10 or 12 years, are utterly unfit for service, and do not make a favorable comparison with the up to date outfit of other states. I am fully aware that the expense of an entire new equipment will be so great as to prejudice the Assembly against it on the ground of cost alone. But I believe that a beginning in the work should be made at once, and I therefore heartily recommend that the Legislature appropriate such sum as will be sufficient to purchase some new clothing for the troops the ensuing year."

Jan. 10, '08, p. 16-19

- f **Va. Swanson.** ". . . Virginia is able to make ample provision for her military, and I recommend that a substantial appropriation be made for this purpose. I would further recommend that the state purchase and properly prepare a permanent camp ground, which should include a rifle range. Nothing would more encourage the Virginia military, nor add more to its efficiency, than this. The federal government would materially aid in procuring this great need. I wish to call your attention to the necessity of amending the laws respecting the state military in order to make them conform to the requirements imposed by the United States government. . ."

Jan. 8, '08, p.13-14

2392

### Armories

- a **O. Harris.** "The problem of armories for the guard has long been a vexing one. The law at present authorizes the payment of \$600 per year to each organization for armory rent, but does not allow a contract for rent to run for a longer period than that covered by the current appropriation. Thus, with no promise of continued occupancy, it is next to impossible to get property built or remodeled suitable for armory purposes. Some definite policy in this regard should be established and followed."

Jan. 6, '08, p.30-31

2398

### Officers and boards

2400

### *Adjutant general*

- a **La. Blanchard.** "Since it has now become the custom to provide regularly in the appropriation bills for the clerical force in the Adjutant General's office, I think it would be advisable to repeal Senate concurrent resolution (act no. 50) of 1896, or else use language, in providing in the appropriation bill for the Adjutant General's office, that will indicate clearly whether it is the intention or



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not of the Legislature that the \$50 per month mentioned in the resolution of 1896 shall be continued to be drawn as salary in addition to what the regular appropriation bill carries for the clerk in the Adjutant General's office." May 12, '08, p.73

2406

## Pensions and relief

2409

### *Confederate veterans*

- a S. C. Ansel. "The ranks are thinning out every day, and before a great while they will all have passed over the river to their rewards on the other shore. I therefore recommend a liberal appropriation for the needy Confederate veterans." Jan. 14, '08, p.11
- b Va. Swanson. "Each year the surviving heroes of the Confederacy become fewer, and their necessities greater. . . I recommend that the pensions paid to the most disabled, dependent, and deserving classes be increased and that a larger appropriation for this purpose be made. . ." Jan. 8, '08, p.10

Preference of veterans, *see* 833, Business taxes

2416

## Soldiers homes

2417

### *Admission*

- a Mich. Warner. "Within the past few days my attention has been called to the fact that, under the wording of the law governing the conduct of the Michigan Soldiers Home, there are a number of faithful soldiers of the Civil War now residents of Michigan who are not eligible to admission to that institution, the result being that not a few of these gallant men who promptly and bravely responded to the call of their country in its time of need are now inmates of county houses. . . This [law] requires a residence of 23 years in our state before a veteran of the civil war would be entitled to the privileges of our Soldiers Home, and a residence of eight years in the case of a veteran of the Spanish-American war. I earnestly recommend that this law be amended so as to make eligible to admission to the home all such soldiers as have been residents of the state of Michigan for a period of five years prior to the date of making application for admission." Oct. 10, '07, S. J. p.26

2430

## Local government

2432

### Municipalities

- a Mass. Guild. "I urge the authorization of a thorough examination by a suitable body of the whole question of municipal government. This body of men should consider what local functions should be transferred from city to state; how the average voter in municipalities (now as a matter of fact if not of law freed from all direct taxation) may have it brought home to him when as a result of his vote extravagant government increases local bur-

2432

dens; the adoption of a uniform system of accounts; the possibility of a uniform charter for general adoption, including all municipal reforms susceptible of general application. . . The one city needing special attention is the capital of the commonwealth, though frankly it is to be doubted whether local misgovernment is greater or even as great comparatively in this city as in some of the smaller municipalities. The condition of Boston, however, under the searchlight of the finance commission notoriously and admittedly reveals unhappy evidence of debt, extravagance and maladministration. . . With a full understanding of the departure from all previous precedents which this recommendation involves, I urge upon you that the reorganization of the municipal government of Boston be further forwarded by the immediate passage of a measure permitting the mayor of Boston, with the approval of the finance commission, to reorganize all executive departments of the city government of Boston and to fix the appropriations for the new fiscal year. The mayor should not be permitted to act without the approval of the finance commission, and the finance commission's recommendations should be subject to the approval of the mayor."

Jan. 2, '08, p.27-30

2433

#### State control of cities. Home rule

- a N. J. Stokes. "Municipalities should govern themselves. They should not be hampered by the continued intervention of the state in local details. I therefore recommend the passage of an act that would confer upon municipalities a general charter under which they should have the broadest powers of local administration consistent with good government. Let each municipality have its own council, or local legislature, with power to pass ordinances or acts for which they are now compelled to appeal to the Legislature. The state should, of course, reserve its proper functions of enacting general laws, which are universally necessary for the peace and good order of society, and should reserve a right of supervision or veto as a matter of precaution and safety. Otherwise let the municipalities legislate for themselves. This provision would go far toward separating state and municipal administration. It would make unnecessary nearly 25% of the legislation that now encumbers our statutes, confuses our laws and causes litigation. It would throw the responsibility for the conduct of municipal affairs where it properly belongs — upon the citizens of each municipality. They would strive with greater enthusiasm to solve their particular local problems, and would take pride in working out their own salvation and in producing the best results in local autonomy."

Jan. 14, '08, p.25-26

2438

#### Organization. Powers generally

- a N. Y. Hughes. "The commission, the appointment of which was authorized at the last session, 'to inquire into the local government of the city of New York and the charter thereof' and to



2438

suggest legislation thereon,' has made a report which I submit to the Legislature. As the commission was directed to report on or before December 1, 1907, it did not have sufficient time to prepare a revised charter. But in its report it has made a valuable contribution to the work of revision in stating the principles which it regards as of fundamental importance, and in projecting the lines of improved governmental system and administration. This work should be prosecuted to completion without unnecessary delay, and I recommend that provision be made at as early a date as practicable for the appointment of a commission for this purpose."

Jan. 1, '08, p.12

2468

### Mayor

- a N. J. Fort. "There should be power in the Executive of the state, upon the complaint of the governing body, or of a specified number of the citizens of any municipality, to receive and to determine charges against the mayor of any municipality for the failure to perform his duty, or for malfeasance in office. It exists in some of our sister states, and it should exist with us."

Jan. 21, '08, p.21-22

2473

### Municipal civil service

2474

#### Appointments. Election

- a N. J. Fort. Recommends "separation of municipal from state and national elections." Jan. 21, '08, p.11-12
- b P. R. Post. "Conflicts have arisen in some municipalities between the alcalde and municipal council in regard to appointments on which the approval of the council is necessary, and in some instances grave inconvenience has been caused by these clashes of authority. These unpleasant situations should be prevented."

Jan. 14, '08, p.52

2492

### County and township government

Includes provisions relating to the Louisiana parish. *See also* specific functions of counties and towns; Roads, charities, drainage etc.

- a La. Blanchard. "Ours is the only state in the Union whose political subdivisions are called 'parishes' instead of counties. There are many reasons why a change to 'county' would be advisable and desirable, and why 'police juries' should be changed to 'county commissioners,' as in other states. But these changes can not be made by statutory law."

May 12, '08, p.78

2501

### Governing body

- a W. Va. Dawson. "I again strongly recommend that you adopt the two amendments printed in full in my regular message to your last session concerning county courts. The one amendment increases the compensation of the members to three dollars per day,



2501

and confers upon any county the privilege of further increase by a vote of its people. The other amendment has reference to an altered and modified form of court for any county and enlarges the authority of the Legislature in passing such acts. It provides that acts creating such tribunals in lieu of county courts may prescribe the duties and compensation of different members of the tribunal, the idea being that in the larger counties it would be better to pay one member of that court a salary that will enable the people to engage a man of large business ability who would be justified, for the compensation fixed, to give to the fiscal affairs of the county either his whole time or such of it as would be needed. The other members of the court should be paid smaller compensation, as they would act in somewhat of an advisory capacity. Our county government is a very weak spot in our plan of government.”

Jan. 28, '08, p.9

2512

## County civil service

2517

### Salaries. Fees

- a W. Va. Dawson. “It is submitted to you with confidence, that the time has arrived in the history of this state to abolish the practice of paying fees to county officers, and to pay to these officers reasonable compensation for their services, to furnish them with needed assistants, and to provide that the fees collected by them shall be paid into the treasuries of the counties. I suggest that the fees to be charged by county clerks, and perhaps by some other county officers, for certain services, may be increased so that the income from this source may be a considerable relief to the taxpayers. . . Unless such a law as this is enacted the statute in respect to the commission allowed sheriffs for the collection and disbursement of taxes should be reenacted so as to make it clear. . .”

Jan. 28, '08, p.7

2550

## Local finance

2552

### Property

2553

### Lands. Purchase. Sale. Lease

- a P. R. Post. “A very grave social condition in Porto Rico exists because a large portion of our population live merely as tenants at will upon municipal or private land, and have no interest in the soil on which their homes are built. . . Some method should be devised whereby the municipalities may acquire small tracts of land in the rural barrios, where from 10 to 50 families may locate and own the lands on which their houses are built. In these aldeas could be located rural schools, and municipal doctors could make regular visits. The municipalities should be encouraged to acquire lands for this purpose, and be authorized to deed them in small lots to actual residents on reasonable terms. Some of the lands owned by the people of Porto Rico should be dedicated to this purpose in the same manner.”

Jan. 14, '08, p.53

## LOCAL FINANCE

### 2559 Property and supplies generally

#### 2561 OFFICERS INTEREST IN CONTRACTS

- a R. I. Higgins. "[I recommend] . . . a law preventing all municipal or state officials from being interested in any contracts or other business transactions in which such municipalities or the state or any of its departments may be a party. . ."

Jan. 10, '08, p.24

### 2575 Budget. Accounts

#### 2577 Appropriation. Tax levy. Expenditures

- a N. J. Stokes. "If, in the future, municipalities should need increased revenues, this increase can be made by local taxation after the reasons therefor shall be explained to the citizens of the locality. Increased income to the municipalities from the state should be credited to the taxpayers. Increased expenditures by the municipalities must then be accounted for to the taxpayers. More economic results are obtained by the necessity of appealing publicly to the taxpayers for increased municipal expenditure than by making this expenditure possible through the use of moneys received from the state, of which, generally speaking, the people have little knowledge, or to which they are too often indifferent."

Jan. 14, '08, p.24-25

- b P. R. Post. ". . . Many municipalities have a cash surplus lying idle in the bank, which can not be appropriated for over a year. At the last session, in several instances, special acts were passed permitting individual municipalities to devote these surplus funds to public improvements. I recommend a general act permitting all municipalities to make supplementary budgets to utilize these surplus amounts for permanent improvements."

Jan. 14, '08, p.52

#### 2578 *Limit of taxation*

- a La. Blanchard. Urges amendment of act 64 laws of 1906 so as to reduce maximum rate of parochial and municipal tax to seven mills; New Orleans to be included.

May 12, '08, p.9-13

### 2597 Debts. Bonds

#### 2598 Limitation of indebtedness

- a N. Y. Hughes. "The Charter Revision Commission recommends that the Constitution should be so amended as to exclude from the computation of the [Greater New York] city's debt limit all bonds or evidences of indebtedness issued for purposes which produce revenues in excess of their maintenance charges. I concur in this recommendation."

Jan. 1, '08, p.12-13

### 2599 Temporary debt

- a R. I. Higgins. ". . . There is no reason whatever why a city or town should not be obliged by law to make some sound pro-

2599

vision for the payment of its notes and other indebtedness, as well as for the payment of its bonds. I, therefore, recommend this subject to your careful consideration, with the belief that action on your part will result in promoting the financial honor of the state, as well as improving the fiscal management of the town and city."

Jan. 10, '08, p.23-24

## Police

*See 872*

2603

## Fire department

2616

### *Pensions. Relief*

- a Okl. Haskell. "Section 41, article 5 of the Constitution authorizes cities to pension their aged and disabled worthy firemen, subject to enactment of proper laws by the Legislature. I earnestly recommend that this provision be given its intended effect."

Dec. 2, '07

2620

## Public works. Public improvements

2627

### Public utilities (general)

*See also 1337, Street railways*

- a N. J. Fort. "A public utilities bill should be enacted that will meet all the demands of the most advanced thought upon governmental regulation of public utility corporations. . . Just and fair regulation can only be objected to by those misconceiving the rights of the state. The state grants all corporate powers to its railways and other public utility corporations, and may not only modify, but repeal all charters and charter privileges it confers. It may, therefore, impose conditions upon their operation at its pleasure. Of course, in the doing of these things, it should act wisely and with conservatism, protecting all vested rights of property and the interests of the innocent holders of the securities of existing quasi public corporations. Regulation, therefore, upon a wise basis, of the operation of these public utilities companies, including the fixing of rates and public charges, upon complaint, and subject to court review, should be intrusted to a proper board, as well as the right to regulate the output of stock and the bonded issues of such corporations. If this were done it would inure to the benefit of the people and the companies, for it would fix the value of such securities, and act as a guaranty against their depreciation. . . There should be but one commission in the state for the regulation of railroads and all public utility companies, and, in case a new act is passed, on this subject, it should embrace all the powers conferred upon the Board of Railroad Commissioners under the act approved May 15, 1907. The act of 1907 is good, as far as it goes, but its powers are not sufficiently broad or drastic to compel a compliance with its orders or to reach many



2627

matters over which it should have plenary control. The present method of enforcing orders, provided by the act of 1907, which requires proceedings in a Court of Equity, by 'a bill for specific performance,' is so absurd as to be almost ludicrous. Any order of the commission should become operative unless court review be commenced by the company affected within a definite number of days, and, in default of proceedings for review, or compliance with the order, a penalty should be imposed by the commission; the mere filing of the order for which in the Supreme Court should cause it to operate as a judgment against the property of the defaulting company, with the enforcement of this judgment by an execution out of the Supreme Court, as in the case of any other judgment.

With this sort of a public utilities bill, with a board of four commissioners, at a reasonable compensation, who should be required to devote all their time to the duties of the office, and three of whom should always be necessary to make any order, good results would be accomplished for the people." Jan. 21, '08, p.3-5

2628

### Franchises (general)

- a La. Blanchard. "Municipalities should be limited by law in the length of time for which they may grant franchises. Place an absolute limit upon the time for which a franchise may be granted or sold, and, if constitutionally permissible, prescribe a period upon which all franchises heretofore granted, and not limited in time, shall terminate. Twenty odd states have already adopted legislation fixing such limit, ranging in a majority of cases from 20 to 35 years, and containing provisions permitting the municipality to purchase the plant at the expiration of the term, or at a time prior thereto. All the more should such limitation be fixed by law since our Constitution contains no provision reserving to the Legislature the power to alter, amend or repeal the grant of franchise rights by municipalities to corporations. In granting or selling franchises care should also be taken to reserve to the grantor full power over rates. Nor should a franchise granted without consideration enter into the capitalization of a public service corporation as part of the investment and as a basis for the establishment of rates. The people should not be taxed to pay tribute on their own bounty." May 12, '08, p.79

2633

### Electricity. Gas

2645

#### *Placing of poles, wires, pipes etc.*

- a O. Harris. "The danger to life and property caused by the careless construction of highly charged electric wires is one that has not been suitably provided against. Where highly charged wires cross or parallel other electrically charged wires, the danger to life and property, unless extreme precaution and the proper method of construction is adopted, is at once apparent. It is recommended that suitable regulations be adopted to guard against

2645

such danger, and that the Railroad Commission, Chief Inspector of Mines and Chief Inspector of Shops and Factories in their respective capacities, where there is no municipal regulation, be empowered to carry out such regulation, and provide such rules as to the crossing and paralleling of highly charged electric wires and wires electrically, but not highly charged, as will reduce such danger to the minimum." Jan. 6, '08, p.37

2661

### Sewerage. Garbage

- a N. J. Fort. "The State Board of Health and the State Sewerage Commission, which cost the state over \$56,000 last year, should be united. The laws creating these two departments are in conflict on many subjects. The Court of Chancery held in the Vine-land case, that the Board of Health act was so repugnant to the Sewerage Commission act that the provisions of the health act permitting the enjoining of the pollution of potable waters, by that board, were repealed. The Court of Errors and Appeals afterward modified the decision and saved both acts, but there is still room for litigation. The Sewerage Commission should be abolished, and the Board of Health reorganized, with a medical secretary in charge, with a president and five members to be appointed, who should be reasonably compensated for their services."

Jan. 21, '08, p.16-17

2698

### Baths, comfort stations and gymnasiums

- a O. Harris. "The recommendation for the erection of public comfort stations upon the Capitol grounds is renewed, with the suggestion that such be done jointly by the state and the city."

Jan. 6, '08, p.31

2700

### Roads. Streets

- a La. Blanchard. "If I were to venture a recommendation relative to our roads, it would be to abolish the office of road overseer, to put the public roads of a parish under the control of a board of road commissioners appointed in each parish, require the police jury to provide a road tax and have country roads constructed like other improvements, by contract and under the supervision and direction of a competent engineer. This system might continue until the state herself were in condition to assume control, as a state charge, of the highways, when the parish road commission would give way to a State Highway Commission."

May 12, '08, p.45-46

- b Va. Swanson. "As the travel and transportation over the public roads are local, state and national, it is but right that the burden of furnishing the means and facilities for this should also be borne by the local, state, and national governments. I believe the proper solution of the road problem in this nation will be found in a just distribution of federal, state, and local aid. With the present most favorable condition of her finances, the time has arrived for the



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state to do her share of this work and to give substantial annual aid to her public roads. The measures passed by the last General Assembly, providing for the working of prisoners in jails and of certain convicts upon the public roads have been productive of good results. This system should be continued and further enlarged. The terms of imprisonment for which convicts can be sentenced to the public roads should be increased; effective measures should be enacted for obtaining the prisoners in the jails to work on the roads, making at the same time just provision for the jailers, whose compensation would be greatly reduced and a reasonable sum of money should be appropriated for the purchase of road machinery and the operation of quarries in the discretion of the Highway Commissioner.

These amendments would greatly add to the efficiency of the present law and also extend its benefits. But this should not be the limit of state aid. Our abundant revenues justify a liberal annual appropriation to relieve the present deplorable condition of our highways. I recommend that the state annually appropriate \$250,000 for road improvement and construction. As our revenues increase in the future, this annual amount could also be increased. Our present receipts are amply sufficient to justify this annual expenditure for this purpose. I recommend that this amount should be used first to pay the expenses of the Highway Commissioner and the operation of the state road force, and that the residue be divided among the counties in proportion to the taxes paid by the respective counties into the State Treasury, charging to each county the expense incurred in the county for working the convict road force prior to the date fixed for distribution. The appropriation should be available only to those counties, or communities in the counties, which will, in addition to the road tax now paid, raise an amount at least equal to that appropriated by the state. The joint fund thus appropriated, should be used in the improvement or construction of roads selected by the concurrence of the Highway Commissioner and local authorities, the road when selected to be improved or constructed according to the plans and specifications of the Highway Commissioner and under his direction."

Jan. 8, '08, p.6-7

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#### State road systems and state aid

- a ~ Md. Warfield. "The precedent thus established for the construction by the state of main lines of travel — 'market roads,' — if pursued to the fullest extent of the state's resources would materially hasten the improvement of the roads so well begun by the counties themselves under the state aid act. The efficiency of the present general act might well be supplemented by the passage from time to time of special acts authorizing the construction by the state of some of our main thoroughfares. The inauguration of such a broad policy on the part of the state would be of the highest importance to our material prosperity, and I feel that its beginning marks an epoch in the history of the state. The most



progressive governments of the world today recognize the imperative need of smooth roads with easy grades, if the people are to reach their highest economic development. It is to be hoped that this work so auspiciously commenced during my administration may be fostered and enlarged as the people of the state come to recognize its vast significance." Jan. 1, '08, p.62-63

- b N. J. Fort. "The policy of the state as to state aid for public roads, should be continued, and I am in favor of its enlargement, in so far as is possible, consistent with the financial condition of the state and the proper conserving of the other public interests."

Jan. 21, '08, p.15

- c N. Y. Hughes. "In making the large expenditure which is contemplated for improved highways, the object is to execute a comprehensive plan in the interest of the whole state, furnishing through lines connecting centers of population and proper lateral lines to provide each section with adequate means of communication. The subject of needed improvement in our system of highway development and maintenance is one deserving of your most careful consideration, in which you will be aided by the report of the committee of the Legislature specially appointed to examine the matter." Jan. 1, '08, p.7

- d O. Harris. "The Commissioner of Highways states in his report that he has never considered the work of the department, under the conditions imposed for the last fiscal year, as other than educational; \$150,000 was appropriated for each of the fiscal years of 1906 and 1907, 'for state aid in road building.' The funds so appropriated are apportioned equally among the 88 counties. Thirty-two counties have received their apportionment for the biennial period, leaving an unexpended balance for both years of \$165,488.41. This fund will not be available after February 15th, 1908, and the commissioner recommends that it be reappropriated, together with the additional sum of \$440,000, for state aid in road building.

The commissioner states: 'The inconsistency of the state pretending to give state aid and giving the department control of contracts and their enforcement, and at the same time requiring localities to pay three times as much as the state, is certainly apparent to all at the present time. The need of the state increasing the amount of state aid from 25% to 50% of cost, and to provide for building under larger contracts to induce contractors with full equipment to take part in lettings will require that the appropriation for state aid be increased to \$5000 to each county.'

. . . The condition of the roads in some parts of our state during the winter months renders practically useless the conveyance which the farmer has for taking his products to market; this, too, at the season when those products bring the highest prices. Bad roads, in keeping away from markets the fullest offering of the farmer's produce, cause an advance in the prices which the city consumer is obliged to pay. The improvement of our highways while primarily beneficial to the agricultural interests will ulti-

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mately work to the advantage of all the people of the state. The movement for good roads should be generously supported and encouraged." Jan. 6, '08, p.22-23

- e **Okl.** Haskell. "[I recommend] that the legislation authorized in article 16 of the Constitution be passed for the purpose of enabling the general improvement of public roads throughout the state." Dec. 2, '07

2713

#### Road taxes and work

- a **Ill.** Deneen. ". . . The regulation of wheeled traffic and the repair and maintenance of the street paving which is worn out or injured by it, require large expenditures on the part of taxpayers, which should be borne by the owners of the vehicles. I am advised that these owners will gladly pay a special license fee or tax, to be devoted to this purpose. A bill prepared at the request of the mayor of Chicago will be submitted to your honorable body covering the desired legislation, and I call the matter to your attention and recommend that you give it due consideration."

Oct. 8, '07, p.10

2723

#### Automobiles and motorcycles

- a **Mass.** Guild. "Last year the General Court adopted in part my recommendation that the automobiles, which more than any other vehicle destroy the surface of the state highways, should be made to pay through a tax, in the form of an annual registration fee, for the repair of the roads they destroy. The present tax is inequitable. It should be so graded that the heavy touring car, which does serious damage, should not escape as at present with exactly the same light tax laid on the small and comparatively harmless runabout. The Highway Commission is not authorized by law to enforce the attendance of witnesses nor to pay witness fees at hearings. Consequently, many strong cases, where licenses should be suspended or revoked, are never presented. This authority to compel the attendance of witnesses should be given. . . I recommend that automobiles coming from outside the commonwealth be made to conform to all regulations made for those owned inside this commonwealth, and that all automobiles operated within this commonwealth for over seven days by outside owners be subjected to the same tax for road repairs imposed for that purpose on automobiles owned within the limits of Massachusetts."

Jan. 2, '08, p.14-15

- b **N. J.** Fort. "At the present time the motor vehicle laws are administered in connection with the office of the Secretary of State. The use of these machines is becoming so general, the number of them is so great (the licenses exceeding 25,000), and the revenue under a changed license system would be so large, that this should be a department by itself. . . If the present automobile law is too stringent it should be amended. A speed of 20 miles an hour in many places is not excessive; in fact, it may be said to be quite moderate, without misstating the truth; while, in other places, a speed of 12 miles an hour is more rapid than these machines should



be permitted to go. But, whatever the law may be, it should be enforced. There should be sufficient officials in the Department of Motor Vehicles to see that it is enforced, and the penalty for the violation of the law should be more severe. The returns from this department, on the basis of an increased license fee, would give it as large a revenue as is derived from any other department of the state, and I should not be surprised if the revenue, within a year, on a reasonable horsepower license fee, would exceed \$300,000. The expense of conducting this department probably would not reach 5% of the entire revenue received, and its efficiency, under a commissioner, could be made very much greater than at present." Jan. 21, '08, p.6-7

c N. J. Fort. "The public roads of the state that have been built assisted by state aid, were built for carriages and bicycles, light trucking and travel of that character. But there has come into the travel of the day the automobile, with its great weight and tremendous power, and the effect upon our public roads has not been good; on the other hand, it has been distinctly injurious. At the rate of speed at which these heavy machines travel, they tear up and destroy the surface of the highways, and something should be done either to protect the surface of the highway by some substantial covering, or a much larger license fee should be charged for the right to operate these machines, to cover the cost of repairs. If the license fee method is adopted, then it should be graded on the basis of the horsepower of the machine operated. It would seem as if we should get from the automobile owners a revenue of about \$250,000 per year, and this entire revenue should be devoted to the repair, or the aiding in the repair of the public highways of the state, the building of which has been assisted by state aid. This tax need not be a heavy one upon auto machines, and the drivers of these machines are quite as anxious for the preservation of the public highways by the keeping of them in repair, as the rest of the traveling public, and they will not object to a reasonable license fee, fixed upon the basis of the horsepower of the machine operated. The fees derived from this license revenue should, as at present, be turned into the State Treasury, to be used under the direction of the State Road Department in the making of such repairs, and should be administered along the lines, and with the same care, which that department now exercises in road construction." Jan. 21, '08, p.15-16

d R. I. Higgins. "The carelessness and speed with which a few owners and drivers of automobiles manage their cars are a source of constant apprehension among our people. Stringent laws are needed to regulate the speed of such cars, especially in the compact part of the cities and towns. The imposition of a fine alone does not seem to produce the necessary deterrent effect in other states. Something more is necessary. I, therefore, recommend the adoption of a more rigorous law regulating the speed of automobiles and other vehicles, particularly in busy sections of the state." Jan. 10, '08, p.20



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# Education Department Bulletin

Published fortnightly by the University of the State of New York

Entered as second-class matter June 24, 1908, at the Post Office at Albany, N. Y., under the act of July 16, 1894

No. 454

ALBANY, N. Y.

SEPTEMBER 1, 1909

## New York State Library

### Legislation 38

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OCTOBER 1, 1907 TO OCTOBER 1, 1908

EDITED BY

Clarence B. Lester, *Legislative Reference Librarian*

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*New York State Education Department*

*New York State Library, April 20 1909*

*Hon. A. S. Draper*

*Commissioner of Education*

DEAR SIR: I have the honor to transmit herewith and recommend for publication the 19th annual index of new legislation. Fourteen regular and fifteen special sessions were held during the legislative year covered by this bulletin. Of 6016 acts passed, 2254 are listed or briefly digested in this Index. All general and permanent laws are included, but private, local and temporary laws, except a few of special interest, are omitted. The Index also contains references to 50 statutes that have been declared unconstitutional by state courts during the year, and records the result of the vote on 107 constitutional amendments submitted to the people.

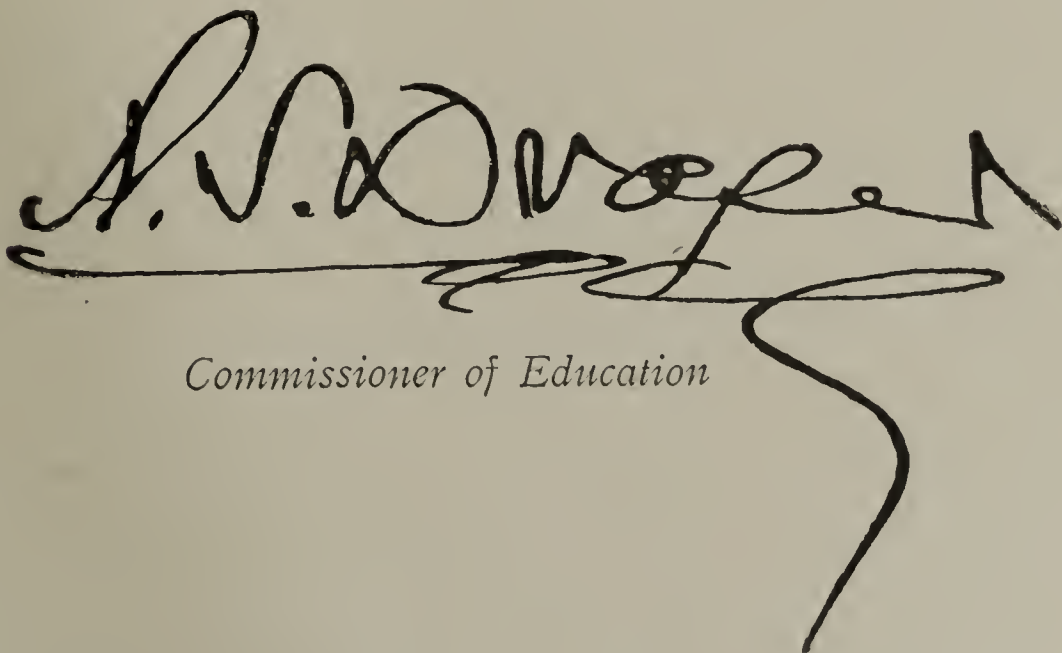
Very respectfully

JAMES I. WYER, JR

*Director*

State of New York  
Education Department  
COMMISSIONER'S ROOM

*Approved for publication this 21st day of April 1909*

A large, stylized handwritten signature in dark ink, appearing to read 'A. S. Draper'. The signature is written in a cursive style with a long, sweeping underline that extends to the right and then curves downwards.

*Commissioner of Education*





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#### PREFATORY

#### EXPLANATIONS

These must be carefully read to understand the bulletin.

**Scope.** All general permanent laws are included. Private, local and temporary acts, unless of great general interest, are omitted. Many acts general in form but special in their application are also omitted. Private acts applying to particular persons or granting relief to specific public officers and local acts applying to a single political division or to but a small proportion of the political divisions belonging to the same class are omitted. Important local acts other than amendatory, on subjects of general interest, are included. New city charters are included but amendments thereto are omitted. Constitutional amendments both local and general are included. All general appropriation bills are omitted. Special appropriation acts providing for the establishment of a new institution or making some extraordinary appropriation of great general interest are included. Laws providing for the general management and control of a particular state institution are included but those relating to some detail of its administration are omitted. All laws legalizing acts already performed are omitted. Laws of Congress and of the noncontiguous territories of the United States are omitted.

**Method.** Usually but one entry is made for a law. To ascertain what legislation has been passed concerning a subject it is necessary for the reader to refer also to the more inclusive heads and to observe carefully the cross references. For example, in looking up laws relating to illegal voting, the user, in addition to consulting entries under 155, Illegal voting, must look under 149, Election offenses, and 126, Elections. Laws relating to illegal voting alone are classed under 155, those relating to illegal voting and other offenses under 149, the general head for election offenses, and those relating to illegal voting and various other election matters under 126, the general head for elections. In addition the cross reference under 126, Elections, to 2225, School elections, must be observed as illegal voting at school elections would be placed under that head. This method should be followed especially this year with regard to Oklahoma legislation; many general laws were passed covering the various phases of a subject which could not be brought out under all the specific subheads.

The plan is a combination of index and digest. A large portion of the entries simply indicate in the most definite manner practicable the exact subject treated by the law. Many entries, however, digest in a line or two the substance of a law or the exact change made by an amendment. Other entries are a combination of the above forms, partly index, partly digest. The aim always is to convey the greatest amount of information possible within a very limited space. Unimportant laws relating to details of procedure or administration are indexed most briefly.

The exact change made by the amendment is often shown by italics to indicate new matter and by brackets inclosing matter superseded: e. g. salary of Governor \$5000 [\$3000] means that the Governor's salary has been increased from \$3000 to \$5000.

The title of acts other than amendatory if concise and definite, is given either in full or in part. The title is included in quotation marks and is annotated when necessary. The number of sections contained in each law is given, when more than two, to show its length and complexity.

**Citations.** A citation to the act indexed or summarized is set off at the end of the entry. It contains year, chapter number or page, and month and day of approval or passage. The abbreviation ch. is used for chapter and p. for page: e. g. '08 ch. 94, July 6; '08 p. 164, May 9. In all states except Georgia, Alabama, Illinois, Missouri and Ohio the session laws are numbered consecutively,



## ABBREVIATIONS

and references are to chapter. As the chapters of the laws of Maryland are not arranged this year consecutively as numbered, a page reference is also given for each citation.

In North Carolina and Rhode Island where the Governor's approval is not necessary, in a number of states where joint and concurrent resolutions do not require the approval of the Governor and in the case of bills that become laws by the expiration of time without the signature of the Governor, the date of passage by the Legislature is given. In a few cases the date of passage and approval are both omitted in the session laws, and in these cases the year only is given.

Citations to statutes amended or repealed by the act indexed always begin with the most general part and end with the most specific: e. g. '95 ch. 859 §2; '98 p.78; R. S. '96 tit. 3 art. 10 §3 ¶4. For abbreviations used in citing compilations of statutes see below.

**Classification.** The classification used is the same in the whole series of Legislation bulletins and will continue unchanged from year to year, except for insertion of new headings necessitated by new subjects of legislation. The numbers assigned to headings will also remain unchanged so that readers can follow recommendations and laws on any subject by looking under the same marginal number in each bulletin. The numbering corresponds to the consecutive numbering of headings in our card index of legislation 1890 to date. Where there is no legislation this subject number is omitted. The entries under each head are alphabetized by states and each entry is designated by a letter or letters, e. g. b, da.

**Subject index.** This is an alphabetic list of the subjects included. References are to the marginal class and entry numbers.

## ABBREVIATIONS

The usual abbreviations of state and month names are used.

A. R.	Atlantic Reporter	C. C.	Civil Code
agric.	agriculture, agricultural	C. C. P.	Code of Civil Procedure
amdg.	amending	C. P.	Code of Procedure
amds.	amends	C. L.	Compiled Laws
amdt.	amendment	C. S.	Compiled Statutes
Ann. L.	Annotated Laws	ch.	chapter
Ann. S.	Annotated Statutes	comn.	commission
art.	article	comr.	commissioner
assmt.	assessment	Cong.	Congress, Congressional
atty.	attorney	const.	constitution, constitu-
bd.	board		tional
C.	Code	corp.	corporation

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Crim. C.	Criminal Code	pt.	part
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# STATISTICS

## STATISTICS OF LEGISLATION OCTOBER 1, 1907 TO OCTOBER 1, 1908

The sessions are biennial in all states and territories except Ga., Mass., N. J., N. Y., R. I. and S. C. where they are annual and Ala. where they are quadrennial. For list of constitutional amendments see marginal nos. 34-36; for list of court decisions declaring statutes unconstitutional see marginal no. 12.

STATES AND TERRITORIES	DATES		Length in days	No. of laws and resolu- tions	No. of laws and resolu- tions in- dexed
	of opening	of closing			
Alabama (extra).....	Nov. 7, '07	Nov. 22, '07	16	92	53
California (extra).....	Nov. 19, '07	Nov. 23, '07	5	13	5
.....	Nov. 23, '07	Nov. 23, '07	1	2	.....
Georgia.....	June 24, '08	Aug. 12, '08	50	286	48
(extra).....	Aug. 25, '08	Sept. 19, '08	27	7	5
Illinois (extra).....	Oct. 8, '07	May 23, '08	229	59	27
Indiana (extra).....	Sept. 18, '08	Sept. 30, '08	13	7	3
Iowa (extra).....	Aug. 31, '08	Nov. 24, '08	12	5	1
Kansas (extra).....	Jan. 16, '08	Feb. 4, '08	20	87	26
Kentucky.....	Jan. 7, '08	Mar. 17, '08	71	78	56
Louisiana (extra).....	Nov. 11, '07	Dec. 10, '07	30	317	202
(regular).....	May 11, '08	July 9, '08	60	27	13
Maryland.....	Jan. 1, '08	Apr. 29, '08	120	703	100
Massachusetts.....	Jan. 1, '08	June 13, '08	165	805	278
Michigan (extra).....	Oct. 7, '07	Oct. 26, '07	20	11	6
Mississippi.....	Jan. 7, '08	Apr. 21, '08	106	296	161
Nevada (extra).....	Jan. 14, '08	Feb. 1, '08	19	27	7
New Jersey.....	Jan. 7, '08	Apr. 10, '08	95	333	248
New York.....	Jan. 1, '08	Apr. 23, '08	114	} 527	190
(extra).....	May 11, '08	June 11, '08	32		
North Carolina (extra).....	Jan. 21, '08	Feb. 1, '08	12	215	19
Ohio.....	Jan. 6, '08	May 9, '08	125	318	249
Oklahoma.....	Dec. 2, '07	May 26, '08	177	235	155
<sup>a</sup> Oregon.....	Election	.....	.....	19	9
.....	June 1, '08	.....	.....	.....	.....
Rhode Island.....	Jan. 7, '08	May 26, '08	141	287	69
South Carolina.....	Jan. 14, '08	Mar. 7, '08	54	713	65
<sup>b</sup> Texas.....	Jan. 8, '07	Apr. 12, '07	95	} 103	9
(extra).....	Apr. 12, '07	May 11, '07	30		
Virginia.....	Jan. 8, '08	Mar. 27, '08	80	404	219
West Virginia (extra).....	Jan. 28, '08	Mar. 3, '08	36	49	31
				6 025	2 254

Michigan constitutional convention, Oct. 27, 1907-Feb. 21 1908. Constitution ratified by people Nov. 3, 1908.

<sup>a</sup> Oregon. Initiative and referendum petitions.

<sup>b</sup> Texas. Special and local laws received too late for 1907 bulletin.



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# LAW (GENERAL)

## Statutes

### Publication of session laws

- a **Ala.** Public printer to print 1000 copies of gen. act within 3 days after approval; distribution; gen. acts to be bound and delivered to Sec. of State within 40 days after adjournment. 5§  
'07(ex.sess.)p.64, Nov.23
- b **Md.** Gov. to furnish public printer certified copies of laws promptly upon approval; Gov. to have laws classified as public gen., public local and private; order of publication. Adds S.'04 art.78 §7, 8.  
'08 ch.269(p.234), Apr.1
- c **N. Y.** Amdg. legis. law '92 ch.682 §44, 45: session laws to be edited under supervision of director of State Library; side notes and references to other laws may be made. 3§  
'08 ch.216, May 6

### *Distribution*

- a **Mass.** Amdg. R.L.ch.9 §3 rel. to publication and distribution of acts and resolves of Gen. Court. '08 ch.474, May 1
- b **Va.** Authorizing Supt. of Public Printing to furnish for fee advance sheets of legis. acts and journals. 5§  
'08 ch.141, Mar.5

### Codification

- a **La.** Gov. to appoint 3 lawyers to draft C. of Crim. Law, Crim. P. and Crim. Correction; \$5000 each; report at session of 1910; \$20,000. 8§  
'08 ch.161, July 2
- b **W. Va.** C.'06 and Supplement '07 declared evidence of acts without further authentication. '08 ch.34, Feb.26

### Revision and compilation

- a **La.** Gov. to appoint 3 lawyers to submit draft of revised C.C.; \$5000 each; report session of 1910; \$20,000. 8§  
'08 ch.160, July 2
- b **Md.** Gov. to appoint Comm. for Revision of Crim. Law: 3 members, to receive \$2000 each; report next session; \$8000.  
'08 ch.325(p.93), Apr.6
- c **Mass.** Providing for preparation and publication of supplement to R.L. to contain acts of 1908; 4000 copies; distribution. 4§  
'08 ch.240, Mar.19
- d **Miss.** Reducing price of C.'06 from \$5 to \$2. '08 ch.146, Mar.14
- e **N. J.** Rep.'04 ch.227 which provided for compilation of gen. statutes. '08 ch.57, Apr.2
- f **N. J.** Gov. to appoint 3 lawyers to revise and consolidate public acts; salary \$300 monthly; to submit work at next session for enactment. 8§  
'08 ch.58, Apr.2

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- g Okl. Publication and distribution of Ann.S.'08; \$30,000. 10§  
'08 ch.78 art.1, May 22
- h R. I. Continuing comn. to arrange and consolidate statutes appointed 1906. '08 r.10, May 26

12 Statutes declared unconstitutional

By highest court of state or of United States. Entries under this head are duplicated under the specific subject of the law declared unconstitutional.

- a Cal. Declaring unconst. '07 ch.274 rel. to extension of corporate existence. Violates Const. art.12 §7.  
Boca Mill Co. v. Curry 97 P. 1117 (1908)
- b Cal. Declaring unconst. '07(ex.sess.)ch.9 providing that courts be open on special holiday except for action on contract for direct payment of money. Special legislation.  
Diepenbrock v. Superior Court 95 P. 1121 (1908)
- c Col. Declaring unconst. '91 p.221 §1 ¶5 rel. to compensation of district attys. Subject not in title.  
Bd. of Comrs. v. Trowbridge 95 P. 554 (1908)
- d Col. Declaring unconst. '02 ch.3 in so far as it attempts to tax interest in land sold by state while title remains in state. Impairs obligation of contract.  
Colorado Farm & Live Stock Co. v. Beerbohm 96 P. 443 (1908)  
Gale v. Beerbohm 96 P. 449 (1908)
- e Ill. Declaring unconst. '97 p.101 §41 providing for subdivision of unsubdivided tracts of land for assmt. for house drains and water service pipes. Deprives of property without due process of law.  
City of Chicago v. Wells 86 N. E. 197 (1908)
- f Ill. Declaring unconst. '03 p.230 §17 in so far as it authorizes recovery of atty.'s fees by holder of mechanics lien. Special legislation.  
Manowsky v. Stephan 84 N. E. 365 (1908)
- g Ill. Declaring unconst. '05 p.284 rel. to sale of merchandise in bulk. Deprives of liberty and property without due process of law.  
Charles J. Off & Co. v. Morehead 85 N. E. 264 (1908)
- h Ill. Declaring unconst. '05 p.353 §1 ¶4 exempting capital stock of certain corporations from taxation. Exempts property not enumerated in Const.  
Consolidated Coal Co. of St Louis v. Miller 86 N. E. 205 (1908)
- i Ill. Declaring unconst. '07 p.443 §119 in so far as it requires Supreme Court on appeal in certain cases to consider controverted questions of fact. Deprives of trial by jury.  
Patterson v. Warfield 84 N. E. 176 (1908)  
Hayward v. Sencenbaugh 85 N. E. 939 (1908)
- j Ill. Declaring unconst. '07 p.443 §120 rel. to appeals to Supreme Court. Denies equal protection of laws.  
Green v. Red Cross Medical Service Co. 83 N. E. 1081 (1908)  
Hecker v. Illinois Cent. R. Co. 83 N. E. 456 (1908)  
Zolnowski v. Illinois Steel Co. 84 N. E. 225 (1908)  
Hackett v. Chicago City Ry. Co. 85 N. E. 320 (1908)  
Reinhardt v. Chicago Junction Ry. Co. 85 N. E. 605 (1908)



- k **Ind.** Declaring unconst. '99 ch.53 rel. to construction of court-house in county of over 25,000. Special law regulating county business.  
Kraus *v.* Lehman 83 N. E. 714 (1908)  
Sanders *v.* Crawford 83 N. E. 718 (1908)
- n **Ind.** Declaring unconst. '07 ch. 64 prohibiting business of barbering on Sunday. Special law where general applicable.  
Armstrong *v.* State 84 N. E. 3 (1908)
- p **La.** Declaring unconst. '00 ch.23 authorizing service on nonresidents by service on agents without authority to receive service or by personal service beyond jurisdiction of court. Not due process of law.  
Aikmann *v.* Sanderson & Porter 47 S. 600 (1908)
- q **La.** Declaring unconst. '02 ch.103 making it felony to trespass on timber lands of another. Embraces more than one subject.  
State *v.* Peterman 46 S. 672 (1908)  
State *v.* Davis 46 S. 673 (1908)
- r **Mich.** Declaring unconst. '01 ch.238 rel. to construction of street railways and adding §51 to C.L.ch.164 art.2 rel. to railroads. Subject not in title of act amended.  
Ecorse Township *v.* Jackson, A. A. & D. Ry. 117 N. W. 89 (1908)
- s **Minn.** Declaring unconst. '05 ch.273 authorizing District Court to detach agric. lands from villages. Delegation of legis. power.  
In re Brenke 117 N. W. 157 (1908)
- t **Minn.** Declaring unconst. '07 ch.97 rel. to passenger rates on railroads and '07 ch.232 rel. to freight rates on railroads. Deny equal protection of law because of excessive penalties imposed.  
Ex parte Young 209 U. S. 123 (1908)
- u **Minn.** Declaring unconst. '07 ch.448 §40 rel. to assmt. of land not already assessed for construction of new ditch connecting with old one. Deprives of property without compensation or due process of law.  
Lyon County *v.* Lien 116 N. W. 1017 (1908)
- v **Minn.** Declaring unconst. '07 ch.458 rel. to highway officers in county of under 200,000. Population alone not proper basis of classification.  
Hjelm *v.* Patterson 117 N. W. 610 (1908)
- w **Mo.** Declaring unconst. R.S.'99 §1085 in so far as requiring railroad to furnish free return transportation to shipper of stock by carload. Deprives of property without due process of law; denies equal protection of laws.  
McCully *v.* Chicago, B. & Q. Ry. Co. 110 S. W. 711 (1908)  
George *v.* Chicago, R. I. & P. Ry. Co. 113 S. W. 1099 (1908)
- x **Mo.** Declaring unconst. '05 p.133 §5 fixing standard of dairy products and providing penalty for violation. Subject not in title.  
City of St Louis *v.* Wortman 112 S. W. 520 (1908)
- y **Mo.** Declaring unconst. '07 p.261 requiring civic league making report of qualifications of candidate for office to publish source of information. Impairs liberty of speech and press.  
Ex parte Harrison 110 S. W. 709 (1908)
- ya **Mo.** Declaring unconst. '07 p.285 rel. to state inspection of grain. Invalid delegation of legis. power.  
Merchants' Exchange *v.* Knott 111 S. W. 565 (1908)

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- yb Mo.** Declaring unconst. '07 p.332 regulating hours of block system telegraph operators and train dispatchers in so far as it applies to interstate commerce.  
State *v.* Missouri Pac. Ry. Co. 111 S. W. 500 (1908)
- yc Mon.** Declaring unconst. Pen.C. §1192 prohibiting unauthorized use of insignia, name or ritual of certain societies. Delegation of legis. power; denies equal protection of laws.  
State *v.* Holland 96 P. 719 (1908)
- yd Neb.** Declaring unconst. '01 ch.11 rel. to bonds of county and township officers and amdg. C.S.ch.10 §19. Matter added not germane to subject of section.  
Prowett *v.* Nance County 117 N. W. 996 (1908)
- ye Nev.** Declaring unconst. '07 ch.32 rel. to appointment of stenographers before committing magistrate. Subject not in title.  
State *v.* Gibson 96 P. 1057 (1908)
- yf N. Y.** Declaring unconst. '05 ch.737 as to provision that rates fixed by Comm. of Gas and Electricity shall not be changed for 3 years even though becoming confiscatory. Denies equal protection of laws.  
Trustees of Saratoga Springs *v.* Saratoga Gas, Electric Light & Power Co. 83 N. E. 693 (1908)
- yg N. D.** Declaring unconst. '07 ch.109 §3, 4 requiring legis. candidate to take oath to vote for party candidate, chosen at primary, for U. S. senator. Adds qualification for candidate not provided by Const. State ex rel. McCue *v.* Blaisdell 118 N. W. 141 (1908)
- yh N. D.** Declaring unconst. '07 ch.199 in so far as it requires railroad to sell 1000 mile ticket to be used by purchaser and family at rate lower than others may purchase such tickets. Denies equal protection of laws.  
State ex rel. McCue *v.* Great Northern Ry. Co. 116 N. W. 89 (1908)  
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- yi O.** Declaring unconst. R.S. §4364 subd.42-45 prohibiting under penalty use or sale of marked bottles without consent of owner. Class legislation. State *v.* Schmuck 83 N. E. 797 (1908)
- yj Okl.** Declaring unconst. S.'03 §6915 providing for recovery of atty.'s fees in action for personal services. Denies equal protection of laws. Chicago, R. I. & P. Ry. Co. *v.* Mashore 96 P. 630 (1908)
- yk Pa.** Declaring unconst. '01 ch.240 §28 giving subcontractor or materialman right to issue attachment against owner or other party indebted to contractor for labor or materials furnished. Special legislation.  
Vulcanite Portland-Cement Co. *v.* John W. Allison Co. 69 A. 855 (1908)
- yn Pa.** Declaring unconst. '01 ch.240 §46 rel. to method for judgment on mechanics lien against public service corp. Special legislation.  
Vulcanite Paving Co. *v.* Philadelphia Rapid Transit Co. 69 A. 1117 (1908)



- yp** **S. D.** Declaring unconst. '99 ch.41 limiting county tax rate to 8 mills. County required to raise sufficient to pay indebtedness; impairs obligation of contract.  
Fremont, E. & M. V. R. Co. *v.* Pennington County 116 N. W. 75 (1908)
- yq** **S. D.** Declaring unconst. '07 ch.139 §8, 10 rel. to payment of fees for filing nominating petitions. Interferes with right of qualified person to become candidate.  
Morrow *v.* Wipf 115 N. W. 1121 (1908)  
Ballinger *v.* McLaughlin 116 N. W. 70 (1908)
- yr** **S. D.** Declaring unconst. '07 ch.139 §65, 67 rel. to selection of delegates to state and -national conventions. Class legislation; delegation of legis. power. Morrow *v.* Wipf 115 N. W. 1121 (1908)
- ys** **Tenn.** Declaring unconst. '75 ch.142 §11 authorizing exercise of power of eminent domain by corp. organized under act. Authorizes taking of property for private use.  
Alfred Phosphate Co. *v.* Duck River Phosphate Co. 113 S. W. 410 (1907)
- yt** **Tenn.** Declaring unconst. '07 ch.403 authorizing life tenant to sue for partition without assent of remaindermen. Deprives of property without due process of law; class legislation.  
McConnell *v.* Bell 114 S. W. 203 (1908)
- yu** **Tex.** Declaring unconst. '05 ch.111 imposing occupation tax on purchasers of assignments of unearned wages. Nonuniform tax; restrains freedom of trade. Owens *v.* State 112 S. W. 1075 (1908)
- yv** **Tex.** Declaring unconst. '05 ch.141 taxing gross receipts of railroads as far as applying to those having receipts from interstate commerce.  
Galveston, Harrisburg etc. Ry. Co. *v.* Texas 210 U. S. 217 (1908)
- yw** **Tex.** Declaring unconst. '07 ch.41 rel. to number composing train crews. Title insufficient.  
Missouri, K. & T. Ry. Co. of Texas *v.* State 113 S. W. 916 (1908)
- yx** **U.** Declaring unconst. C.L.'07 §1710x, 1710x, subd. 1 requiring license to peddle certain goods not manufactured in state. Interferes with interstate commerce; not within police power; denies equal protection of laws.  
State *v.* Bayer 97 P. 129 (1908)
- yy** **Wash.** Declaring unconst. '07 ch.48 §1 as far as it exempts money from taxation. Avoids taxation of all property.  
State ex rel. Wolfe *v.* Parmenter 96 P. 1047 (1908)
- yz** **Wash.** Declaring unconst. '07 ch.158(159)§3 authorizing county of 1st class to aid U. S. govt. in construction of canal. Subject not in title. State ex rel. Potter *v.* King County 96 P. 156 (1908)
- z** **Wash.** Declaring unconst. '07 ch.209 §7, 9, 10, 24, 36 as far as relating to direct nomination of candidates for U. S. House of Representatives and Senate. Subject not in title.  
State ex rel. Zent *v.* Nichols 97 P. 728 (1908)
- za** **W. Va.** Declaring unconst. '01 ch.93 as far as giving wardens all fines for violation of game laws.. Net proceeds of fines to go to free schools.  
State *v.* Parkins 61 S. E. 337 (1908)



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- zb **W. Va.** Declaring unconst. '07 ch.62,'08 ch.9 §4 reducing limit of tax rate in municipality as far as it affects payment of outstanding indebtedness.  
Welch Water, Light & Power Co. v. Town of Welch 62 S. E. 497 (1908)
- zc **Wis.** Declaring unconst. '07 ch.269 regulating construction and maintenance of tenement houses. Provisions not within police power. Bonnett v. Vallier 116 N. W. 885 (1908)
- zd **Wis.** Declaring invalid '07 ch.575 regulating hours of block system operators so far as it applies to interstate commerce.  
State v. Chicago, M. & St P. Ry. Co. 117 N. W. 686 (1908)

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### Uniform laws

- a **Md.** Continuing for 4 years Comn. for Promotion of Uniformity of Legislation in U. S. 6§ '08 ch.407 (p.148), Apr.8
- b **R. I.** Amdg. '96 ch.352 §4 rel. to payment of expenses of Comrs. for Promotion of Uniformity of Legislation in U. S.  
'08 p.775, May 29

15

## CONSTITUTIONAL LAW

This and 750, Administrative law, make up what is commonly known as the Political Code.

16

### Capital

- a **Cal.** Changing capital from Sacramento to Berkeley. Rejected by people Nov. 1908. '07 ch.98, Mar.6
- b **Okl.** Amdg. Const. 1907 by adding art.21 §2: location of capital to be as fixed by law till designated by vote of people. Adopted Nov. 1908. '08 p.779, May 27
- c **Okl.** Submitting to vote of people question of securing site for capital city to be owned by state. Adopted Nov. 1908.  
'08 p.775, May 29

17

### Boundary. Jurisdiction

- a **La.** Bd. of State Engineers to mark water boundary between Miss. and La. with buoys. 4§ '08 ch.137, July 2
- b **Mass.** Boundary line between Ct. and Mass.; to take effect on adoption by Ct. '08 ch.192, Mar.10

18

### Cessions to United States

- a **Md.** Consent to U. S. acquiring lands in mountains for national forest reserve. '08 ch.217 (p.266), Apr.1
- b **Okl.** Consent to U. S. acquiring land for governmental purposes. 3§ '08 ch.29 art.1, Apr.6
- c **S. C.** Authorizing U. S. to acquire land for governmental purposes. 3§ '08 ch.521, Feb.19  
Same. '08 ch.523, Feb.17  
Same. '08 ch.525, Feb.25

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- d **Va.** Authorizing U. S. to acquire land to enlarge military reservations and carry out seacoast defenses on Chesapeake bay.  
'08 ch.206, Mar.12

19

## Statistics

*See also* 938, Vital statistics; 1832, Agriculture

21

## Census

*See also* 2274, School census

- a **Mass.** Rep. R.L.ch.107 §3 which provided for taking special enumeration of city or town by Bureau of Statistics of Labor on request of local authorities.  
'08 ch.90, Feb.17
- b **Mass.** Authorizing tabulation of data rel. to occupations and social conditions from last decennial census; \$10,000; 4 vols.; contents; printing; distribution. 3§  
'08 ch.517, May 14
- c **Okl.** Making special federal census of 1907 official census of state.  
'08 ch.9 art.1, Apr.8

22

## State coat of arms, name, seal, flag, flower, song

24

### Flag

- a **Mass.** Defining flag of commonwealth.  
'08 ch.229, Mar.18

25

### Flower

- a **Ill.** Native oak and native violet made state tree and flower.  
'08 p.98, Feb.21

30

## Constitutions

32

## Revision

- a **Md.** Question of calling const. convention submitted to vote. Rejected Nov. 1907.  
'06 ch.786, Apr.5
- b **Mich.** Convention to make gen. revision of Const.; met at Lansing Oct.'07-Feb.'08. Const. adopted by people Nov. 1908.  
'07 ch.272, June 27
- c **Va.** Certain libraries, educational institutions and state officers to be provided with debates of const. convention 1901-2.  
'08 ch.154, Mar.10

33

## Amendment

*See also* 181, Ballots

- a **Me.** Amdg. Const. 1819 art.10 §2: amdt. proposed by Legis. to be voted on 2d Monday in Sept. *following* [at next biennial election]. Adopted Sept. 1908.  
'07 r.238, Mar.28
- b **Miss.** Submitting amdt. to Const. 1890 §273: amdt. to Const. required to be inserted at next *session of* Legis. after adoption. Vote Nov. 1908. Not submitted to vote because of failure of sufficient publication.  
'08 ch.286, Mar.19

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- c **Miss.** Publication of proposed const. amdt. '08 ch.135, Mar.20
- d **O.** Amdg. '02 P.352 §1 rel. to manner of submission of const. amdt.: to be printed in *first column of ballot in language clearly designating* [in party columns to be voted in accordance with action of party convention]. '08 p.120, Apr.15
- e **Va.** Amdg. C.§206: clerk of House of Delegates to cause publication of proposed amdts. to Const. '08 ch.13, Feb.3
- f **Va.** Amdg. C. §207: clerk of House of Delegates to have enrolled and to furnish Supt. of Public Printing with copy of acts and joint resolutions *proposing amdts. to Const.* '08 ch.14, Feb.3
- g **Va.** Manner of agreeing to and submitting amdts. to Const. 3§ '08 ch.17, Feb.3

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## Amendments pending

The entries under this head are duplicated under the special subjects to which they pertain.

- a **Del.** Referring to Legis. 1909 amdt. to Const. 1897 art.2 §15 rel. to compensation of members of Gen. Assembly: \$10 [\$5] per diem; presiding officers \$12 [\$6]. '07 ch.8
- b **Ky.** Submitting amdt. to Const. 1891 by adding article: credit of commonwealth may be loaned to county; county may incur indebtedness not to exceed 5% of taxable property for road purposes. Vote Nov. 1909. '08 ch.36, Mar.21
- c **Md.** Submitting amdt. to Const. 1867 art.1 §1 rel. to suffrage: restricted to those 2 [1] years in state, 1 year [6 months] in county *and registered*; registration restricted to those entitled to vote in 1869 and their descendants, persons naturalized since 1869 and their descendants, persons passing educational test, and those paying taxes on \$500. Vote Nov. 1909. '08 ch.26(p.300), Apr.25
- d **Nev.** Referring to Legis. 1909 amdt. to Const. 1864 art.2 §7: poll tax to be applied *to roads* [½ for state and ½ for county purposes]. '07 p.450, Mar.29
- e **Nev.** Referring to Legis. 1909 amdt. to Const. 1864 art.10 §1 rel. to taxation: patented mines to be taxed; when mortgage taxed assessed value of property to be reduced proportionally. '07 p.452, Mar.29
- ea **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: election of members of Legis. *biennial* [annual]; apportionment; term of Gov. 4 [3] years, of county clerks and surrogates 6 [5] years, of sheriffs and coroners 4 [3] years; gen. election for state and county officers in even years, for justices of peace and munic. officers in odd years. Add art.7 §2 ¶12-14 10§ Not printed in session laws
- eb **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §4 ¶7: salary of members of Legis. \$1000 [\$500] annually. Not printed in session laws
- ec **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §7 by striking out ¶10 rel. to vesting certain chancery powers in circuit courts or courts of common pleas. Not printed in session laws



CONSTITUTIONS AMENDMENTS PENDING

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- ed N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.5 ¶10: Gov. and 4 appointed by him for 5 years to constitute Bd. of Pardons; may remit fines and forfeitures, and grant *reprieves, commutations, pardons and paroles*. Not printed in session laws
- ef N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.6 §1, 2, 4-7, art.7 ¶1, 2 rel. to judicial system. Rep. art.7 ¶5, 8. 188 Not printed in session laws
- f N. Y. Referring to Legis. 1909 amdt. to Const. 1894 art.2 §3: Legis. may authorize inmates of Soldiers Home and Women's Relief Corps Home to vote in district where home located. '07 p.2508, June 11
- g N. Y. Referring to Legis. 1909 amdt. to Const. 1894 art.3 §27: Legis. may confer additional powers on county auditors. '07 p.2508, June 14
- h N. Y. Referring to Legis. 1909 amdt. to Const. 1894 art.6 §2: justices of Appellate Division of Supreme Court to designate special *and trial* terms in dept. '07 p.2505, Mar.12
- i N. Y. Referring to Legis. 1909 amdt. to Const. 1894 art.6 §7 rel. to Court of Appeals: 2 additional associate judges *to be elected* [designated from Supreme Court by Gov.]; *salary of associate judge \$15,000; of chief justice \$15,500*. '07 p.2506, June 13
- j N. Y. Referring to next Legis. amdt. to Const. 1894 art.6 §12: provisions rel. to compensation of justices of Supreme Court generally amended. '08 p.1917, Apr.14
- k N. Y. Referring to next Legis. amdt. to Const. 1894 art.7 §4: Legis. may alter interest on state debt except as to part not issued; where increased difference to be provided by direct tax. '08 p.1918, Apr.8
- n N. Y. Referring to next Legis. amdt. to Const. 1894 art.8 §10: city of New York may issue bonds not to exceed 1/10 of 1% of assessed valuation in anticipation of tax levy; water bonds of city of 3d class not included in debt limit; debt incurred by city of New York for public improvement yielding income in excess of interest not included in debt limit. '08 p.1920, Apr.21
- p N. D. Referring to next Legis. amdt. to Const. 1889 §25: initiative and referendum in state legislation. '07 p.451, Mar.23
- q N. D. Referring to next Legis. amdt. to Const. 1889 §140: railroads *and common carriers* to keep offices in state and make reports. '07 p.450, Mar.23
- r N. D. Referring to next Legis. amdt. to Const. 1889 §158: sale of school and public lands. '07 p.454, Mar.23
- s N. D. Referring to next Legis. amdt. to Const. 1889 §176: Legis. may impose income tax; may exempt from taxation fraternal societies and hospitals used wholly or partly for public charity. '07 p.455, Mar.23
- t N. D. Referring to next Legis. amdt. to Const. 1889 §216: normal school established at Minot. '07 p.453, Mar.11

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- u Pa. Referring to Legis. 1909 amdt. to Const. 1874 art.5 §6, 8: consolidation of Courts of Common Pleas in Philadelphia and Allegheny counties; Legis. may establish separate court of criminal jurisdiction for Philadelphia county. '07 p.833
- v Pa. Referring to Legis. 1909 amdt. to Const. 1874 art.9 §8: debt of municipality not to exceed 10% [7%] of assessed valuation. '07 p.834
- w Pa. Referring to Legis. 1909 amdt. to Const. 1874 of sundry articles and sections relative to terms of office of various state and local officials, election days; state and munic. elections to be separate. 12§ '07 p.835
- x R. I. Referring to next Legis. amdt. to Const. 1842 art.5 §1, art.6 §2, 3 and adding new section: Gov. given veto power; *Lieut. Gov.* [Gov.] to preside over Senate and grand committee; House of Representatives not to exceed 100 [72] members, no town or city to have more than 1/4 [1/6]; Legis. to divide towns and cities into representative districts in accordance with population. 5§ '08 r.1, Apr.10
- y Va. Referring to next Legis. amdt. to Const. 1902 §46: session of Gen. Assembly not to exceed 90 [60] days. '08 ch.93, Feb.27
- z Va. Referring to next Legis. amdt. to Const. 1902 §50: bill before becoming law to be read in each house *by title* [at length] on 3 different days *and at length at least once*. '08 ch.317, Mar.14
- za Va. Referring to next Legis. amdt. to Const. 1902 §110: county treasurer and comrs. of revenue eligible for reelection [for not more than 2 and 1 terms respectively]. '08 ch.37, Feb.14
- zb Va. Referring to next Legis. amdt. to Const. 1902 §119, 120: atty. for commonwealth in city [not] eligible for reelection; city treasurer [not] eligible for more than 2 consecutive terms. '08 ch.48, Feb.19
- zc Wis. Referring to next Legis. amdt. to Const. 1848 art.4 §3: Legis. apportionment after [state and] U. S. census. '07 p.1293
- zd Wis. Referring to next Legis. amdt. to Const. 1848 art.4 §21: compensation of legislator \$1000 [\$500] for regular session. '07 p.1295
- ze Wis. Referring to next Legis. amdt. to Const. 1848 art.8 §10: Legis. may appropriate money, not to exceed 2/10 mill of taxable property, annually to develop water power and forests. '07 p.1293
- zf Wis. Referring to next Legis. amdt. to Const. 1848 art.10 §3: district schools free to children aged 6 [4] to 20. '07 p.1288

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## Amendments adopted

The entries under this head are duplicated under the special subjects to which they pertain.

- a Ala. Amdg. Const. 1901 §93: Legis. may apply net proceeds from state convict fund to construction and maintenance of roads, and may make additional appropriations for same purpose. 3§. Adopted Nov. 1908. '07 p.740
- b Ark. Amdg. Const. 1874 art.21 rel. to qualifications of elector: residence of 1 month in precinct, *town* or ward required. Adopted Sept. 1908. '07 p.1256, Apr.27



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- c Cal. Amdg. Const. 1879 art.2 §2½: mandatory for Legis. to enact direct primary laws. Adopted Nov. 1908. '07 p.1271, Mar.6
- d Cal. Amdg. Const. 1879 art.4 §2, 23: no bill to be introduced in Legis. after 40 [50] days of session except with consent of 3/4 [2/3]; compensation of members \$1000 annually, \$10 per day for extra session [not exceeding \$8 per day for not over 60 days]. Adopted Nov. 1908. '07 p.1362, Mar.14
- e Cal. Amdg. Const. 1879 art.4 §16: bills unsigned by Gov. at adjournment of Legis. may be signed in 30 [10] days. Adopted Nov. 1908. '07 p.1370, Mar.14
- f Cal. Amdg. Const. 1879 by adding art.4 §23a: expense for employees of Legis. limited to \$500 per day during regular sessions; \$200 for extra sessions. Adopted Nov. 1908. '07 p.1358, Mar.11
- g Cal. Amdg. Const. 1879 art.4 §26: contracts rel. to stock speculation void. Adopted Nov. 1908. '07 p.1360, Mar.14
- h Cal. Amdg. Const. 1879 art.9 §6 rel. to public school system. Adopted Nov. 1908. '07 p.1275, Mar.6
- i Cal. Amdg. Const. 1879 art.11 §5: Legis. may fix fees of county officers; also of jurors graded according to class of county, not to exceed \$3 per day. Adopted Nov. 1908. '07 p.1276, Mar.8
- j Cal. Amdg. Const. 1879 art.12 §3: provisions as to liability of stockholders not to apply to those of international exposition companies in state. Adopted Nov. 1908. '07 p.1365, Mar.14
- k Cal. Amdg. Const. 1879 art.12 §7: charter of *quasi public* corp. not to be extended; *of others may be extended by written consent of 2/3 of stock*. Adopted Nov. 1908. '07 p.1240, Feb.27
- n Cal. Amdg. Const. 1879 art.16 §1: loans not to run for over 75 [20] years; *sinking funds may be provided for*. Adopted Nov. 1908. '07 p.1366, Mar.14
- p Ga. Amdg. Const. 1877 art.2 §1: qualification of electors. 13§. Adopted Oct. 1908. '07 p.47, Aug.21; '08 p.27, Aug.1
- q Ga. Amdg. Const. 1877 art.3 §3: House of Representatives to consist of 184 [183] members. Adopted Oct. 1908. '08 p.31, Aug.6
- r Ga. Amdg. Const. 1877 art.7 §1: tax authorized for pensions for Confederate veterans and widows. Adopted Nov. 1908. '08 p.34, Aug.12
- s Ga. Amdg. Const. 1877 art.7 §6: county may levy tax for county police and necessary sanitation. Adopted Nov. 1908. '08 p.33, Aug.17
- t Id. Amdg. Const. 1889 art.5 §2, 17, 20, 24; art.18 §6; and rep. art.5 §11, 21: District Court for each county; Probate Court abolished; salaries of Supreme and District Court judges. 9§. Adopted Nov. 1908. '07 p.592, Mar.7
- u Id. Amdg. Const. 1889 art.18 §6: county comrs. may authorize deputy assessors and tax collectors. 3§. Adopted Nov. 1908. '07 p.585, Mar.6
- v Ill. Amdg. Const. 1870: Ill. and Mich. Canal *or other canal or waterway owned by state* to be sold or leased only on vote of people; *construction of deep waterway from Chicago Sanitary District to Ill. river; issue of \$20,000,000 of bonds for construction; lease of water power developed*. Adopted Nov. 1908. '07 (ex. sess.) p.102, Oct.16



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- w** **Ia.** Amdg. Const. 1857 art.1 §18: Legis. may regulate construction of drains etc. across private lands, provide for organization of drainage districts and maintenance of drains. Adopted Nov. 1908.  
'06 p.210, Apr.10; '07 p.282, Apr.1
- x** **La.** Amdg. Const. 1898 art.81, 82: salary of Sec. of State \$5000 [\$1800 and fees]; appropriation for clerical force \$10,000 [\$2500]. Adopted Apr. 1908. '07 ch.12, Nov.27
- y** **La.** Amdg. Const. 1898 art.81, 82 rel. to salaries and expenses of Treasurer, Sec. of State, Auditor of Public Accounts; expenses of Insurance Dept. Adopted Nov. 1908. '08 ch.260, July 8
- ya** **La.** Amdg. Const. 1898 art.134 rel. to allotment of cases among judges of Civil District Court, Orleans parish. Adopted Nov. 1908. '08 ch.280, July 9
- yb** **La.** Amdg. Const. 1898 art.249: salary of State Supt. of Public Education \$5000 [\$2000 with expenses not to aggregate more than \$4000]. 3§. Adopted Nov. 1908. '08 ch.28, June 20
- yc** **La.** Amdg. Const. 1898 art.281 rel. to issuance of bonds by municipalities, parishes and drainage districts. 3§. Adopted Nov. 1908. '08 ch.300, July 9
- yd** **La.** Amdg. Const. 1898 art.286: rate fixed by Railroad Comn. to remain in force till set aside by courts; penalties; authority of comn. extended. Adopted Apr. 1908. '07 ch.14, Nov.28
- ye** **La.** Amdg. Const. 1898 art.288: Legis. may extend authority of Railroad Comn. [on recommendation of comrs.]. Adopted Apr. 1908. '07 ch.15, Nov.28
- yf** **La.** Amdg. Const. 1898 art.303 rel. to Confederate pensioners: must not be worth more than \$500; annual appropriation *not to exceed* \$250,000 [\$75,000 to \$150,000]. Adopted Nov. 1908. '08 ch.269, July 9
- yg** **La.** Amdg. Const. 1898 by adding article: foreign corp. not to remove suit to federal court; penalties. Adopted Apr. 1908. '07 ch.10, Nov.25
- yh** **La.** Amdg. Const. 1898 by adding article: 1 tax collector for city of New Orleans; salary \$5000; clerical expenses not to exceed \$35,000 annually. 3§. Adopted Apr. 1908. '07 ch.25, Dec.4
- yi** **La.** Amdg. Const. 1898 by adding article: mortgages on real estate in state and loans to policy holders by insurance companies exempt from taxation. Adopted Nov. 1908. '08 ch.62, June 24
- yj** **La.** Amdg. Const. 1898 by adding article ratifying '06 ch.19, '08 ch.116 rel. to issue by New Orleans of \$8,000,000 of public improvement bonds. Adopted Nov. 1908. '08 ch.116, July 2
- yk** **La.** Amdg. Const. 1898 by adding article ratifying '08 ch.179 which authorizes New Orleans to issue \$2,000,000 of bonds for Public Belt Railroad. 10§. Adopted Nov. 1908. '08 ch.179, July 3
- yn** **La.** Amdg. Const. 1898 by adding article ratifying '08 ch.180 which authorizes Bd. of Comrs. of Port of New Orleans to issue \$3,500,000 of bonds for rebuilding of wharves. 7§. Adopted Nov. 1908. '08 ch.180, July 3
- yp** **La.** Amdg. Const. 1898 by adding article ratifying '08 ch.83 rel. to care and control of neglected and dependent children. Adopted Nov. 1908. '08 ch.245, July 8

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**yq Me.** Amdg. Const. 1819 art.4 pt.1 §1, pt.3 §1 and adding §16-22 to pt.3: state and local initiative and referendum. Adopted Sept. 1908.  
'07 r.121, Mar.20

**yr Me.** Amdg. Const. 1819 art.10 §2: amdts. proposed by Legis. to be voted on 2d Monday in Sept. *following* [at next biennial election]. Adopted Sept. 1908.  
'07 r.238, Mar.28

**ys Mich.** Amdg. Const. 1850 art.14 §10: taxation of property of transportation corporations. Adopted Nov. 1908.  
'07 p.524

**yt Minn.** Amdg. Const. 1857 as substitute for art.9 §1-4: power of taxation indestructible; taxes to be uniform and for public purpose; exemptions; special assmts. Adopted Nov. 1906.  
'05 ch.168, Apr.13; '07 ch.477, Apr.20

This amdt. was voted upon in 1906 and reported by the canvassers at that time as adopted. The Supreme Court of Minn. on Jan. 7, 1909, decided that the amdt. had been adopted. Pending this decision the amdt. had been resubmitted in 1908, and the vote at that time was for rejection. Presumab'y this latter vote was of no effect, and the amdt. stands as adopted in 1906.

**yu Minn.** Amdg. Const. 1857 art.9 §16: Legis. may levy tax of 1/4 [1/20] mill for bridge and road fund; omitting clause rel. to appointment of State Highway Comm. 3§. Adopted Nov. 1906.  
'05 ch.212, Apr.17; '07 ch.478, Apr.24

This amdt. was voted upon in 1906 and reported by the canvassers at that time as rejected. The Supreme Court of Minn. on Jan. 7, 1909, decided that the amdt. had been adopted. Pending this decision the amdt. had been resubmitted in 1908, and the vote at that time was for rejection. Presumably this latter vote was of no effect, and the amdt. stands as adopted in 1906.

**yv Miss.** Concurrent resolution inserting amdt. to Const. 1890 §66 adopted by people Nov. 1906: law granting donation or gratuity requires concurrence of 2/3 members *elect* of each branch of Legis.  
'08 ch.149, Mar.7

**yw Mo.** Amdg. Const. 1875: county or town may levy special road and bridge tax of 25c per \$100. Adopted Nov. 1908. [Probably intends to supply new section, art.10 §22, in place of art.10 §11a, held unconst. in St. v. C. B. & Q. R. R. Co., 195 Mo. 228 (1906)]. '07 p.458

**yx Mo.** Amdg. Const. 1875 by adding section: initiative and referendum. Adopted Nov. 1908.  
'07 p.452

**yy Mon.** Amdg. Const. 1889 art.12 §14: Gov., State Auditor and State Treasurer to constitute State Depository Bd. 3§. Adopted Nov. 1908.  
'07 ch.123, Mar.6

**yz Neb.** Amdg. Const. 1875 art.6 §3, 4, 5, 6 and 13 rel. to Supreme Court: to consist of 7 [3] judges; judges to reside where court is held; time of election; chief justice to be elected as such, and preside during entire term [judge having shortest time to serve to act as chief justice]. 5§. Adopted Nov. 1908.  
'07 ch.202, Apr.8

**z Neb.** Amdg. Const. 1875 art.8 §9 rel. to investment of school funds: may be invested in *registered school district bonds and such other securities as Legis. may direct*. Adopted Nov. 1908.  
'07 ch.201, Mar.5



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- za **N. D.** Amdg. Const. 1889 §89: Supreme Court to consist of 5 [3] judges. Adopted Nov. 1908. '05 p.351, Mar.6; '07 p.458, Mar.23
- zb **N. D.** Amdg. Const. 1889 §158 rel. to sale of school lands; provisos. Adopted Nov. 1908. '05 p.350, Mar.6; '07 p.457, Mar.23
- zc **N. D.** Amdg. Const. 1889 §162: school funds may be invested in drainage bonds or bonds of states not having repudiated indebtedness. Adopted Nov. 1908. '05 ch.101, Feb.25; '05 p.351, Feb.25; '07 p.456, Mar.23
- zd **Okl.** Amdg. Const. 1907 by adding art.5 §61: Legis. authorized to provide Torrens system of land registration. Adopted Nov. 1908. '08 p.775, May 26
- ze **Okl.** Amdg. Const. 1907 by adding art.21 §2: location of capital to be as fixed by law till designated by vote of people. Adopted Nov. 1908. '08 p.779, May 27
- zf **Or.** Amdg. Const. 1857 art.2 §14: gen. biennial election *1st Tuesday after 1st Monday in Nov.* [1st Monday in June] beginning 1910; then incumbents of offices except Gov. to hold over to 1st Monday, Jan. 1911. Adopted June 1, 1908. '07 p.503, Feb.23
- zg **Or.** Amdg. Const. 1857 art.2 §16: authorizing law to provide for majority vote for public officer; to provide for proportional representation of parties; to provide for indication by voter of 2d and 3d choice; to provide simple method of precinct residence and registration. Proposed by initiative petition and adopted June 1, 1908.
- zh **Or.** Amdg. Const. 1857 by adding art.2 §18: public officer of state or locality may be recalled at special election held on petition of 25% of electors of state or district. Proposed by initiative petition and adopted June 1, 1908.
- zi **Or.** Amdg. Const. 1857 art.7 §18: requiring indictment by grand jury for charge in Circuit Court [Legis. may abolish grand jury]; *district atty. may file amended indictment where original declared defective.* Proposed by initiative petition and adopted June 1, 1908.
- zj **Or.** Amdg. Const. 1857 art.14 §3: state institutions *not located elsewhere prior to Jan. 1, 1907*, to be in county at seat of government, *except when otherwise ordered by Legis. and ratified by electors.* Adopted June 1908. '07 p.505, Feb.13
- zk **S. C.** Amdg. Const. 1895 art.10 §7: debt limitation not to apply to town of Gaffney when bonds applied to erection and maintenance of waterworks, electric light plants or sewerage system and proposition submitted to popular vote. Adopted Nov. 1908. '08 ch.712, Feb.27
- zn **S. C.** Amdg. Const. 1895 art.13 §4: election by people of Adjutant [and Inspector] Gen.; [Gov. and Senate may appoint such staff officers as Legis. directs]. Adopted Nov. 1908. '08 ch.703, Feb.26
- zp **Tex.** Amdg. Const. 1876 art.7 §3: *majority* [ $\frac{2}{3}$ ] of taxpayers of school district may vote additional tax of *50c* [20c] on \$100. Adopted Nov. 1908. '07 p.413, Mar.20
- zq **U.** Amdg. Const. 1895 art.13 §4: mines and mining property to be taxed by *State Bd. of Equalization.* 3§. Adopted Nov. 1908. '07 p.274, Mar.23



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zr **Wis.** Amdg. Const. 1848 art.3 §1 ¶2: qualified electors to include [white] persons of foreign birth declaring intention to become citizens *prior to Dec. 1, 1908; proviso* right hereby granted to cease Dec. 1, 1912. Adopted Nov. 1908. '05 p.994; '07 ch.661, July 17

Ratified by Legis. '07 p.1289

zs **Wis.** Amdg. Const. 1848 art.5 §10: bill not returned by Gov. within 6 [3] days to become law; proviso. Adopted Nov. 1908.

'05 p.994; '07 ch.661, July 16

Ratified by Legis. '07 p.1281

zt **Wis.** Amdg. Const. 1848 art.8 §1: Legis. may provide for graduated income tax. Adopted Nov. 1908. '05 p.992; '07 ch.661, July 16

zu **Wis.** Amdg. Const. 1848 art.8 §10: state may appropriate money or levy tax for construction or improvement of public highways. Adopted Nov. 1908. '05 p.991; '07 ch.238, June 19

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## Amendments rejected

The entries under this head are duplicated under the special subjects to which they pertain.

a **Ala.** Submitting amdt. to Const. 1901 §46, 48, providing for *biennial* [quadrennial] sessions of Legis. 4§. Rejected Nov. 1908. '07 p.909

b **Ala.** Submitting amdt. to Const. 1901 by adding art. 19: formation of new counties. Rejected Nov. 1908. '07 p.628

c **Ark.** Submitting amdt. to Const. 1874 art.16 §1: counties, cities and towns authorized to issue bonds, not to exceed 10% of assessed valuation, for maintenance of public improvements; 3 mill levy. Rejected Sept. 1908. '07 p.1257, May 23

d **Cal.** Submitting amdt. to Const. 1879 art.5 §19: salary of Gov. \$10,000 [\$6000]; Lieut. Gov. \$4000 [per diem of speaker of Assembly]; Sec. of State, Comptroller, Treasurer, Surveyor Gen. \$5000 [\$3000]; Atty. Gen. \$6000 [\$3000]; clerks in such offices not to exceed \$1800 [\$1600]. Rejected Nov. 1908. '07 p.1364, Mar.14

e **Cal.** Submitting amdt. to Const. 1879 art.9 §7: composition of State Bd. of Education; uniform textbooks. Rejected Nov. 1908. '07 p.1369, Mar.14

f **Cal.** Submitting amdt. to Const. 1879 art.13 §1, 9-11: separation of state and local taxation. Adds §14, 15; rep. art.11 §10. 7§. Rejected Nov. 1908. '07 p.1353, Mar.9

g **Cal.** Submitting amdt. to Const. 1879 to rep. art.13 §4 rel. to taxation of obligations by which debt is secured. Rejected Nov. 1908. '07 p.1159, Feb.19

h **Col.** Submitting amdt. to Const. 1876 art.5 §30: salary of Gov. \$7500 [\$5000] and \$2500 [\$1500] for private sec.; of judge of Supreme Court \$7500 [\$5000]; of judge of District Court \$5000 [\$4000]. 4§. Rejected Nov. 1908. '07 ch.133, Apr.15

i **Col.** Submitting amdt. to Const. 1876 art.11 §3: authorizing limit of indebtedness to be exceeded by issue of bonds to fund Auditor of State's warrants for 1887-89, 1892-94, 1897. 11§. Rejected Nov. 1908. '07 ch.134, Apr.9

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- j **Col.** Submitting amdt. to Const. 1876 art. 14 §15: Legis. to fix compensation of county, precinct *and other* officers. 3§. Rejected Nov. 1908. '07 ch.180, Apr.3
- k **Fla.** Submitting amdt. to Const. 1885 art.5 §9: salaries of justices of Supreme Court [\$3000], circuit judges [\$2500] *and judges of criminal courts of record to be fixed by Legis.* Rejected Nov. 1908. '07 p.767, May 27
- n **Fla.** Submitting amdt. to Const. 1885 art.5 §35: Legis. authorized to establish new judicial circuits. Rejected Nov. 1908. '07 p.768, June 3
- p **Fla.** Submitting amdt. to Const. 1885 art.12 by adding §16: 1 mill tax for certain institutions of learning. Rejected Nov. 1908. '07 p.767, June 3
- q **Kan.** Submitting amdt. to Const. 1859 art.2 §3: compensation of members of the Legis. to be \$500 *for regular session* and \$100 *for special session* [\$3 per day, but not more than \$150 for regular or \$90 for special session]; mileage 3c [15] per mile. Rejected Nov. 1908. '07 ch.431, Mar.9
- r **Kan.** Submitting amdt. to Const. 1859 art.3 §13: justices of Supreme Court and judges of *all Courts of Record* [District Courts] not to hold any other office *except that of judge of federal court or of state court* during term for which elected. Rejected Nov. 1908. '07 ch.432, Mar.12
- s **Minn.** Submitting amdt. to Const. 1857 art.7 §7: educational qualification for county supts. of schools; Legis. to fix. Rejected Nov. 1908. '07 ch.480, Apr.24
- v **Minn.** Submitting amdt. to Const. 1857 art.9 adding new section: state insurance for loss to crops from hail and cyclone; tax on land listed by owners; fund; action by Legis. authorized. Rejected Nov. 1908. '07 ch.479, Apr.25
- w **Miss.** Submitting amdt. to Const. 1890 §273: amdt. to Const. required to be inserted at next *session of* Legis. after adoption. Vote Nov. 1908. Not submitted to vote because of failure of sufficient publication. '08 ch.286, Mar.19
- x **Mo.** Submitting amdt. to Const. 1875 art.4 §16: compensation of legislators \$750 *per annum* [\$5 per day first 70 days, \$1 thereafter]. Rejected Nov. 1908. '07 p.457
- y **Mo.** Submitting amdt. to Const. 1875 adding 7§ to art.10 rel. to separation of state and local revenues. 7§. Rejected Nov. 1908. '07 p.460
- ya **Mo.** Submitting amdt. to Const. 1875 art.10 §12a: in city of 2000 to 30,000 debt for waterworks, electric or other light plants not to be considered rel. to limitation of indebtedness. Rejected Nov. 1908. '07 p.454
- yb **Mo.** Submitting amdt. to Const. 1875 adding art.10 §12b: city of 100,000 authorized to incur additional indebtedness of 5% of assessed valuation. Rejected Nov. 1908. '07 p.453
- yc **Mo.** Submitting amdt. to Const. 1875 adding art.10 §27: tax of 10c on \$100 for highways. Rejected Nov. 1908. '07 p.457



# CONSTITUTIONS AMENDMENTS REJECTED

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**yd Mo.** Submitting amdt. to Const. 1875 rel. to composition and procedure of Supreme Court. 8§. Rejected Nov. 1908. '07 p.458

**ye Mon.** Submitting amdt. to Const. 1889 art.12 §9 rel. to rate of tax levy. 3§. Rejected Nov. 1908. '07 ch.154, Mar.7

**yf Nev.** Referring to Legis. of 1907 amdt. to Const. 1864 art.11 §3: school funds may be invested in bonds of any city or county in U. S. Not repassed by Legis. of 1907. '05 p.277, Mar.13

**yg O.** Submitting amdt. to Const. 1851 art. 2 by amdg. and dividing §16 into §16 & 18, also renumbering §18-32 as §19-33: reading of bill on final passage; Gov.'s veto. Rejected Nov. 1908.

'06 p.412, Mar.20

**yh O.** Submitting amdt. to Const. 1851 art.2 §25: regular Legis. session to commence on 1st Monday in Jan. [biennially in even years] *next after it is chosen*. Rejected Nov. 1908. '06 p.413, Mar.20

**yi O.** Submitting amdt. to Const. 1851 art.12 §2: Legis. may classify subjects of taxation. Rejected Nov. 1908. '08 p.629, Mar.27

**yj Okl.** Establishing State Agency for Sale of Intoxicating Liquors; referendum vote; art.1 to become part of Const. on adoption. 30§. Rejected Nov. 1908. '08 ch.69 art.1, Mar.24

Submitting same to popular vote, Nov. 1908. '08 p.770, Apr.16

**yk Or.** Amdg. Const. 1857 art.2 §2: right of suffrage to be extended to women. Proposed by initiative petition and rejected June 1, 1908.

**yn Or.** Submitting amdt. to Const. 1857 art.4 §29: compensation of legislators \$400 *for session* [\$3 per diem not to exceed \$120]; \$10 [\$3] per diem for extra session; *actual traveling expenses* [\$3 for every 20 miles] each way. Rejected June 1908. '07 p.503, Feb.13

**yp Or.** Submitting amdt. to Const. 1857 art.7: abolishes County Court; amds. generally provisions as to Supreme and Circuit Courts. 15§. Rejected June 1908. '07 p.506, Feb.19

**yq Or.** Amdg. Const. 1857 art.9 §1: dwelling houses, outhouses, machinery, buildings used for manufacturing, fences, farm machinery, fruit trees, vines, improvements on farms, live stock, household furniture and workmen's tools exempted from taxation. Proposed by initiative petition and rejected June 1, 1908.

**yr Or.** Amdg. Const. 1857 art.11 §2: municipalities given exclusive right to regulate theaters, race tracks, pool rooms, bowling alleys, billiard halls and sale of liquors subject to local option laws. Proposed by initiative petition and rejected June 1, 1908.

**ys S. D.** Submitting amdt. to Const. 1889 art.11: annual levy; graduated inheritance and income taxes. Rejected Nov. 1908. '07 ch.96

**yt S. D.** Submitting amdt. to Const. 1889 adding art.29: salary of Atty. Gen. same as of state officers enumerated in art.4 §12. Rejected Nov. 1908. '07 ch.97

**yu Tex.** Submitting amdt. to Const. 1876 art.4 §5, 17: salary of Gov. \$8000 [\$4000], of Lieut. Gov. \$2500 [same as members of Senate]. Rejected Nov. 1908. '07 p.417

**yv Tex.** Submitting amdt. to Const. 1876 art.5 §18: county may be redistricted into comrs. precincts *as may be provided by law*. Rejected Nov. 1908. '07 p.416



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- yw U. Submitting amdt. to Const. 1895 art.11 §3: Legis. may erect new counties from old ones on vote of counties affected. 4§. Rejected Nov. 1908. '07 p.273, Mar.25
- yx U. Submitting amdt. to Const. 1895 art.13 §7: tax rate not to exceed 8 mills, *4 1/2 for gen. purposes, 3 for district schools, 1/2 for high schools.* 3§. Rejected Nov. 1908. '07 p.272
- yy Wash. Submitting amdt. to Const. 1889 art.1 §16: right of eminent domain for right of way for removal of timber. 3§. Rejected Nov. 1908. '07 ch.69, Mar.5
- yz Wash. Submitting amdt. to Const. 1889 art.7 §1-4 rel. to taxation, by substituting 1§. 3§. Rejected Nov. 1908. '07 ch.67, Mar.5
- z W. Va. Submitting amdt. to Const. 1872 art.4 §4, art.8 §23: only elector eligible for elective [or appointive] office; comrs. of County Court to receive \$4 [\$2] per day *which may be increased by election.* 6§. Rejected Nov. 1908. '08 ch.20, Mar.4  
     Same (resolution). '08 p.250, Feb.18  
     Same (resolution). '08 p.255, Mar.2
- za Wy. Submitting amdt. to Const. 1889 art.15 §9: State Bd. of Equalization to consist of *chairmen of bds. of county comrs.* [State Auditor, Treasurer and Sec. of State]. Rejected Nov. 1908. '07 p.194, Feb.16

38

## Officers. Departments

Departments of agriculture are classified under Agriculture, departments of education under Education, etc.

- a Okl. Enumerating employees of state depts. and their salaries. 3§. '08 ch.66 art.1, May 1

38(1

### *Civil service examination*

- a N. J. Creating Civil Service Comm. of 4; appointed by Gov. and Senate; term 4 years; salary \$2000; classification of positions; appointments, promotions and removals in state and munic. service to be made according to provisions of act; preference of veterans of Civil War; adoption by municipality by referendum. 33§ '08 ch.156, Apr.10

38(3

### *Oath. Installation*

38(4

### BONDS. SURETIES

- a Ill. State Treasurer to deposit moneys within 5 days of receipt in banks paying highest rate of interest; \$5000 appropriated to pay premiums on bonds of State Treasurer and his employees. 3§ '08 p.32, Mar.7
- b Ky. Conditions of official bonds and those given by depositories and fiduciaries. '08 ch.49, Mar.17
- c Mass. Certain officials of commonwealth required to give bonds to be reimbursed for premiums paid by them. '08 ch.469, May 1
- d Miss. Amdg. C.'06 §3462: bond of State Treasurer \$100,000 [\$250,000]; bonds of officials may be made in whole *or in part* by surety company. '08 ch.191, Jan.17

## STATE DEPARTMENTS

38(4

- e N. Y.** Amdg. public buildings law '93 ch.227 §6, 7 rel. to State Architect: not required to give bond; may appoint deputy at \$5000.  
'08 ch.8, Feb.20

38(5

### *Preference of veterans*

- a N. Y.** Defining exempt firemen entitled to privileges of civil service law. 5§  
'08 ch.325, May 19

38(6

### *Qualifications*

- a Okl.** Msdr. for public officer to appoint or vote for appointment to governmental position of relative within 3d degree; penalty \$100 to \$1000 and forfeiture of office; applies to state and local offices. 7§  
'08 ch.60 art.1, May 8
- b W. Va.** Submitting amdt. to Const. 1872 art.4 §4, art.8 §23: only elector eligible for elective [or appointive] office; comrs. of County Court to receive \$4 [\$2] per day *which may be increased by election*. 6§.  
Rejected Nov. 1908. '08 ch.20, Mar.4  
Same (resolution). '08 p.250, Feb.18  
Same (resolution). '08 p.255, Mar.2

38(8

### *Salaries. Fees*

- a Cal.** Submitting amdt. to Const. 1879 art.5 §19: salary of Gov. \$10,000 [\$6000]; Lieut. Gov. \$4000 [per diem of speaker of Assembly]; Sec. of State, Comptroller, Treasurer, Surveyor Gen. \$5000 [\$3000]; Atty. Gen. \$6000 [\$3000]; clerks in such offices not to exceed \$1800 [\$1600]. Rejected Nov. 1908. '07 p.1364, Mar.14
- b Col.** Submitting amdt. to Const. 1876 art.5 §30: salary of Gov. \$7500 [\$5000] and \$2500 [\$1500] for private sec.; of judge of Supreme Court \$7500 [\$5000]; of judge of District Court \$5000 [\$4000]. 4§.  
Rejected Nov. 1908. '07 ch.133, Apr.15
- c La.** Amdg. Const. 1898 art.81, 82 rel. to salaries and expenses of Treasurer, Sec. of State, Auditor of Public Accounts; expenses of Insurance Dept. Adopted Nov. 1908. '08 ch.260, July 8
- d Mass.** Authorizing Gov. and Council to reimburse members of unpaid comms. and delegates to national meetings.  
'08 ch.543, May 26
- e Miss.** Joint legis. committee to report bill at session of '1910 to equalize salaries of state officers. '08 ch.289, Mar.18
- f O.** Rep. R. S. § 14 which required state officer to pay into treasury fees collected. '08 p.264, May 1
- g Okl.** Amdg. S.'03 §3059 rel. to fees of Sec. of State: rates; to be paid into treasury. '08 ch.13 art.1, May 23

38(9

### *Tenure of office. Discipline*

For recall *see also* 115

- a La.** Courts not to enjoin Gov. from removing officer according to law. '08 ch.81, June 30
- b Mass.** Amdg. '03 ch.320 §2, which forbids public service corp. to employ, promote or discharge employee on recommendation of public officer and prohibits latter making recommendation: probation officer, notary public, justice of peace, agents of Prison Comrs. and Bd. of Charity excepted. '08 ch.228, Mar.18
- c Miss.** Amdg. C.'06 §3459 defining vacancy in office: exists though officer holds over till successor qualifies. '08 ch.190, Mar.20

38(9)

- d **Or.** Amdg. Const. 1857 by adding art.2 §18: public officer of state or locality may be recalled at special election held on petition of 25% of electors of state or district. Proposed by initiative petition and adopted June 1, 1908.

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**Governor**

*See also* 782, Executive mansion; 852, Governor's contingent fund

- a **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 § 1 ¶ 3, §2 ¶1,2 §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: term of Gov. 4 [3] years; gen. election for state and county officers in even years. Adds art.7 §2 ¶12-14. 10§  
Not printed in session laws.

43

*Salary*

- a **Tex.** Submitting amdt. to Const. 1876 art.4 §5, 17; salary of Gov. \$8000 [\$4000], of Lieut. Gov. \$2500 [same as members of Senate]. Rejected Nov. 1908. '07 p.417

44

*Secretary. Clerks. Employees*

- a **Ky.** Empowering Gov. to employ stenographer. '08 ch.1, Feb.14  
b **Mass.** Gov. and Council may appoint clerk of Executive Dept.; salary \$1200. '08 ch.507, May 11

45

*Veto*

- a **Cal.** Amdg. Const. 1879 art.4 §16: bills unsigned by Gov. at adjournment of Legis. may be signed in 30 [10] days. Adopted Nov. 1908. '07 p.1370, Mar.14  
b **O.** Submitting amdt. to Const. 1851 art.2 §16 as to Gov.'s veto: provision permitting veto of any section or sections of any bill repealed. Rejected Nov. 1908. '06 p.412, Mar.20  
c **R. I.** Referring to next Legis. amdt. to Const. 1842 art.5 §1, art.6 §2, 3 and adding new section: Gov. given veto power; *Lieut. Gov.* [Gov.] to preside over Senate and grand committee; House of Representatives not to exceed 100 [72] members, no town or city to have more than 1/4 [1/6]; Legis. to divide towns and cities into representative districts in accordance with population. 5§  
'08 r.1, Apr.10  
d **Wis.** Amdg. Const. 1848 art.5 §10: bills not returned by Gov. within 6 [3] days to become law; proviso. Adopted Nov. 1908.  
'05 p.994; '07 ch.661, July 16  
Ratified by Legis. '07 p.1281

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**Lieutenant governor**

- a **R. I.** Referring to next Legis. amdt. to Const. 1842 art.5 §1, art.6 §2, 3 and adding new section: Gov. given veto power; *Lieut. Gov.* [Gov.] to preside over Senate and grand committee; House of Representatives not to exceed 100 [72] members, no town or city to have more than 1/4 [1/6]; Legis. to divide towns and cities into representative districts in accordance with population. 5§ '08 r.1, Apr.10  
b **Tex.** Submitting amdt. to Const. 1876 art.4 §5, 17: salary of Gov. \$8000 [\$4000], of Lieut. Gov. \$2500 [same as members of Senate]. Rejected Nov. 1908. '07 p.417



49

**Secretary of state**

- a **La.** Amdg. Const. 1898 art.81, 82: salary of Sec. of State \$5000 [\$1800 and fees]; appropriation for clerical force \$10,000 [\$2500]. Adopted Apr. 1908. '07 ch.12, Nov. 27
- b **Mass.** Sec. of Commonwealth authorized to appoint 2 deputies; salary \$2500. '08 ch.561, June 1
- c **O.** Empowering Sec. of State to appoint assistant to act in absence; salary \$3000. 4§ '08 p.265, May 1
- d **Okl.** Amdg. S.'03 §3059 rel. to fees of Sec. of State: rates; to be paid into treasury. '08 ch.13 art.1, May 23
- e **R. I.** Salary of Sec. of State \$4500. '08 ch.1593, May 26

50

**Attorney general**

- a **Ky.** Rel. to Atty. Gen.: duties; assistants and employees; expenses; bond; books and files. 7§ '08 ch.32, Mar.20
- b **La.** Amdg. '77 ch.26 §3: salary of clerk of Atty. Gen. \$2000 [\$1500]. '08 ch.275, July 9
- c **Nev.** Atty. Gen. to have supervisory powers over district attys.; may take charge of prosecution. '08 ch.5, Jan.31
- d **Nev.** Authorizing Atty. Gen. to appoint necessary deputies. '08 ch.15, Feb.8
- e **S. D.** Submitting amdt. to Const. 1889 adding art. 29: salary of Atty. Gen. same as of state officers enumerated in art.4 §12. Rejected Nov. 1908. '07 ch.97

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**Officers and departments created,  
abolished or reorganized**

Courts and court officers not included

The entries under this head are duplicated under the special subject to which they pertain. They are grouped here primarily for the use of the document librarian and the student of state administration.

- a **Ala.** Reorganizing Bd. of Pharmacy: 3 members appointed by Gov.; term 3 years; examination and licensing of pharmacists; regulations for sale of drugs. Rep. C. '96 §3248-59, 5335. 11§ '07 (ex. sess.) p.81, Nov.22
- b **Ala.** Establishing Ala. Epileptic Colony: Gov. to appoint 3 comrs.; term 4 years; to select site and govern colony; admission; support of patients; transfer from other institutions; \$20,000; \$10,000 annually. 25§ '07 (ex. sess.) p.164, Nov.30
- c **Ala.** Creating State Comn. of Forestry to consist of Gov., member of State Tax Comn., State Game and Fish Comr., Comr. of Agric. and Industries, practical lumberman appointed by Gov. for 4 years, member of U. S. Forest Service, professor of forestry in Ala. Polytechnic Institute; forest reserve established; exemption from taxation for tree planting; forest wardens; prevention of forest fires; forest reserve fund; U. S. authorized to acquire land for national forest reserve. 18§ '07 (ex. sess.) p.192, Nov.30
- d **Ga.** Comr. of Pensions to be elected by people; term 2 years; salary \$3000. 5§ '08 p.66, Aug.14

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- e **Ga.** Establishing Bd. for Examination of Accountants: 3 members, appointed by Gov. term 3 years; examination and certification of public accountants. 5§ '08 p.86, Aug.17
- f **Ga.** Creating State Bd. of Veterinary Examiners: 5 members, appointed by Gov., term 5 years; examination of candidates; license to practise required. 8§ '08 p.88, Aug.14
- g **Kan.** Bank Comr. authorized to appoint assistant at \$2000, 4 additional deputy examiners at \$1800; banks to be examined twice per year; reports. 3§ '08 (ex. sess.) ch.13, Feb.1
- h **Ky.** Amdg. '06 ch.18 §1, 6, 8, 9, 10, 13, 14, 29 rel. to State Bd. of Control for Charitable Institutions: 4 [3] members; *bipartizan*; fiscal year; *receiver* [steward] at institution; counsel; reception and discharge of patients; certification to Auditor of Public Accounts; surplus receipts. 7§ '08 ch. 28, Mar.21
- i **Ky.** Rel. to Atty. Gen.: duties; assistants and employees; expenses; bond; books and files. 7§ '08 ch.32, Mar.20
- j **La.** Creating Bd. of River Port Pilot Comrs. for Port of New Orleans: 3 members appointed by Gov. and Senate; appointment and examination of pilots; association; compensation; trial for incompetency; penalties. 9§ '08 ch.54, June 24
- k **La.** Establishing State Bd. of Accountants: 3 members, appointed by Gov., term 6 years; examination and certification of candidates; unauthorized use of C. P. A. msdr. 8§ '08 ch.125, July 2
- n **La.** Creating Comr. of Labor and Industrial Statistics: appointed by Gov. and Senate; term 4 years; salary \$1500; duties. 7§ '08 ch.155, July 2
- p **La.** Creating State Printing Bd. to consist of Gov., State Auditor and Sec. of State; letting of contract; gen. regulations. Rep.'81 (ex. sess.) ch.6. 24§ '08 ch.184, July 6
- q **La.** Creating State Bd. of Osteopaths: 5 members appointed by Gov.; term 5 years; examination and licensing of osteopaths. 8§ '08 ch.185, July 6
- r **La.** Creating State Bd. of Veterinary Examiners: 4 members appointed by Gov.; term 4 years; examination and licensing of veterinarians; penalties; practising defined. 19§ '08 ch.202, July 8
- s **La.** Establishing State Live Stock Sanitary Bd. to consist of Comr. of Agric., professor of veterinary medicine at State University, entomologist of state experiment stations and 2 appointees of Gov. with term of 4 years; plenary power to establish quarantines and eradicate contagious diseases of animals. 8§ '08 ch.274, July 9
- t **La.** Creating Bd. of Comrs. for Protection of Birds, Game and Fish: 3 members appointed by Gov. and Senate for 4 years; enforcement of game laws; hunter's license. 10§ '08 ch.278, July 9
- u **La.** Creating Bd. of Engineering Examiners: 5 members appointed by Gov.; term 6 years; to license surveyors and civil engineers; regulations. 13§ '08 ch.308, July 9



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- v Md. Creating State Roads Comn. to consist of Gov., 3 appointees of Gov., 2 members of Md. Geological and Economic Survey; salaries of appointees \$2000, of chairman \$2500; to build system of state roads; work to be completed in 8 years; bond issue of \$5,000,000. Adds C.'04 art.91 §32a-o. 15§  
'08 ch.141 (p.247), Mar.25
- w Md. Constituting trustees of Md. Agric. College State Bd. of Agric. 3§  
'08 ch.161 (p.294), Mar.30
- wa Md. Amdg. '02 ch.160 §2, 5, 7, 8, 11, 14 rel. to State Bd. of Undertakers. Adds §14a-b. 8§  
'08 ch.496 (p.294), Apr.6
- wb Mass. Bd. of Agric. to appoint annually State Ornithologist; salary \$500; to investigate habits of birds of state; relation of birds to outbreaks of insects; protection of crops and fruits from birds; to act in advisory capacity as to economic status of birds. 3§  
'08 ch.245, Mar.19
- wc Mass. Gov. and Council may appoint clerk of Executive Dept.; salary \$1200.  
'08 ch.507, May 11
- wd Mass. Sec. of Commonwealth authorized to appoint 2 deputies; salary \$2500.  
'08 ch.561, June 1
- we Mass. Rel. to Comn. on Industrial Education; terms 5 [3] years; Gov. and Council to appoint woman additional member; powers over independent industrial schools; payment of nonresident tuition by commonwealth. 4§  
'08 ch.572, June 2
- wf Mass. Auditor of Accounts to be known as Auditor of Commonwealth; to appoint deputy; supervisor of accounts to supervise accounts of all state depts.; annual estimates. 6§ '08 ch.597, June 8
- wg Mass. Gov. and Council to appoint 7 trustees, including 2 women, for terms of 5 years, to purchase site, erect buildings and manage Industrial School for Boys; inmates to be over 15, commitment; parole. 7§  
'08 ch.639, June 13
- wh Mass. Creating Comn. on Probation: 5 members; appointed by Chief Justice of Superior Court; term 5 years; to have gen. supervision of probation officers; latter to report to comn.; report of comn. Rep.R.L. ch.217 §§85-90. 6§  
'08 ch.645, Apr.28
- wi Miss. Creating State Live Stock Sanitary Bd. to consist of Comr. of Agric. and Commerce, professors of animal husbandry and veterinary science at Agric. and Mechanical College and 2 appointees of Gov., latter at \$5 per diem; to have plenary powers to deal with infectious diseases of animals; importation; quarantine; reports. 8§  
'08 ch.106, Mar.20
- wj Mon. Amdg. Const. 1889 art.12 §14: Gov., State Auditor and State Treasurer to constitute State Depository Bd. 3§. Adopted Nov. 1908.  
'07 ch.123, Mar.6
- wk Nev. Creating Nev. State Police to consist of supt., appointed by Gov. at his pleasure, 1 inspector, 4 sergeants, 25 police officers and 250 reserves; compensation; duties; discipline. 24§ '08 ch.4, Jan.29
- wm Nev. Adjutant Gen. created Commissary of Nev. State Police; salary \$1200; to purchase provisions and equipment. 5§  
'08 ch.20, Feb.8



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- wn** N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.5 ¶10: Gov. and 4 appointed by him for 5 years to constitute Bd. of Pardons; may remit fines and forfeitures, and grant *reprieves, commutations, pardons and paroles*. Not printed in session laws.
- wp** N. J. Creating Dept. of Inland Waterways: to consist of comr. appointed by Gov. and Senate; term 5 years; salary \$2000; to maintain and improve existing waterways and to recommend new routes; annual report to Gov. 3§ '08 ch.15, Mar.17
- wq** N. J. Creating Live Stock Comn. to consist of director and husbandman of State Experiment Station, representative of State Grange and 2 members, graduated veterinarian and breeder of live stock, appointed by Gov. for 3 years; \$10 per diem; to maintain for use in several counties stallions of draft and coach types; to aid in selection of dams and sires of other kinds of live stock; to constitute stallion examining bd.; \$20,000; \$5000 annually. 5§ '08 ch.56, Apr.1
- wr** N. J. Creating Civil Service Comn. of 4; appointed by Gov. and Senate; term 4 years; salary \$2000; classification of positions; appointments, promotions and removals in state and munic. service to be made according to provisions of act; preference of veterans of Civil War; adoption by municipality by referendum. 33§ '08 ch.156, Apr.10
- ws** N. J. Creating Dept. of Public Reports: to consist of comr. appointed by Gov. and Senate; term 5 years; salary \$2000; to examine critically, edit and index, with approval of Gov., all official reports; reports to be filed with Sec. of State; comr. to determine parts to be printed. 3§ '08 ch.211, Apr.13
- wt** N. J. Regulating public service stallions and jacks: registration; animal husbandman of State Experiment Station, graduate veterinarian and prominent breeder to constitute Stallion Examining and Registration Bd.; examination; licenses; disqualifying diseases enumerated; penalties. 11§ '08 ch.212, Apr.13
- wu** N. J. Rep.'04 (ex. sess.) ch.4 creating River Flood District Comn. to take measures to regulate overflow of flood rivers. '08 ch.218, Apr.13
- wv** N. J. Abolishing State Sewerage Comn. '08 ch.296, Apr.16
- ww** N. J. Duties of State Sewerage Comn. to devolve on State Bd. of Health. '08 ch.297, Apr.16
- wx** N. J. Terminating terms of members of State Bd. of Health. '08 ch.298, Apr.16
- wy** N. J. Amdg. '87 ch.68 §1: State Bd. of Health to consist of [Sec. of State, Atty. Gen., State Geologist and 7] 6 persons appointed by Gov. and Senate; 1 to be sec. and physician; term 6 [7] years; *compensation* \$1500; proceedings of bd. '08 ch.299, Apr.16
- wz** N. J. Establishing Dept. of Accounts: in charge of Auditor of Accounts, appointed by Gov. and Senate; term 5 years; salary \$3000; to establish uniform bookkeeping in state depts. and institutions; audit of accounts of state and county officials; Gov. may remove. Rep.'04 ch.198. 4§ '08 ch.305, Apr.16

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- x N. Y. Amdg. public buildings law '93 ch.227 §6, 7 rel. to State Architect: not required to give bond; may appoint deputy at \$5000. '08 ch.8, Feb.20
- xa N. Y. Amdg. agric. law '93 ch.338 §141, 144 rel. to State Fair Comn.: 7 [11] members; 5 [9] members appointed by Gov. and Senate; *Lieut. Gov. presiding officer*; [no] compensation of appointees \$3000; *fees need not be paid into State Treasury*. Rep. §145. 3§ '08 ch.31, Mar.18
- xb N. Y. Amdg. charities law '96 ch.546 §41: office of deputy fiscal supervisor created. '08 ch.54, Mar.23
- xc N. Y. Amdg. banking law '92 ch.689 §5: 3d deputy supt. of banking created. '08 ch.57, Mar.23
- xd N. Y. Gov. to appoint special examiner and appraiser of canal lands; term 3 years; salary \$4000; manner of appraisal. Rep.'04 ch.335. 3§ '08 ch.195, Apr.30
- xe N. Y. Establishing State School of Agric. at Morrisville to give courses preliminary to those at State College of Agric. at Cornell University; Gov. and Senate to appoint 5 trustees for 4 years; Comr. of Agric. and director of agric. school at Cornell ex officio trustees; \$20,000. 7§ '08 ch.201, May 6
- xf N. Y. Revising and recodifying highway law: provides for State Highway Comn. of 3 appointed by Gov. and Senate; term 6 years; salary \$5000, of chairman \$6000; state trunk highways. Rep. sundry statutes. 230§ '08 ch.330, May 19
- xg N. Y. State charitable or reformatory institution to be under control of bd. of 7 appointed by Gov. and Senate; term 5 years; either sex eligible; Gov. may remove; reduction or enlargement of present bds. Adds §50a to state charities law '96 ch.546. '08 ch.433, May 20
- xh N. Y. Creating Bd. of Examiners in Optometry: 5 members appointed by Regents of University, terms 3 years; regulation of practice and examination and licensing of practitioners. Adds 209a-i to public health law '93 ch.661; rennumbers art.13 as '14. 10§ '08 ch.460, May 21
- xi N. Y. Creating Fire Island State Park on Long Island; Gov. and Senate to appoint 5 comrs., terms 5 years, to control and manage; \$5000. Rep.'93 ch.111 §5. 11§ '08 ch.474, May 22
- xj N. Y. Amdg. agric. law '93 ch.338 §67, 68, 70a rel. to communicable diseases of animals: quarantine; test of herds; experiments; bureau of veterinary service established in Agric. Dept.; appraisal of diseased animals; compensation for animals destroyed. Adds §63a. 4§ '08 ch.518, June 12
- xk O. Gov. to appoint comn. of 5 to have care of Fort Meigs; term 5 years. 4§ '08 p.22, Feb.26
- xn O. Creating State Dental Bd. of 5: appointed by Gov. and Senate, term 5 years; \$10 per diem; regulation of practice of dentistry; qualifications, examination and licensing of candidates; penalties. Rep.R.S. §4404, 6991. 27§ '08 p.66, Apr.7
- xp O. Empowering Sec. of State to appoint assistant to act in absence; salary \$3000. 4§ '08 p.265, May 1



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- xq** O. Establishing State Bd. of Accountancy; 3 members, practical accountants, appointed by Gov.; term 3 years; \$5 per diem; exchange with other states and countries; unauthorized use of C. P. A. prohibited. 9§ '08 p.332, May 9
- xr** O. Gov. to appoint, annually, committee of 6 women to visit from time to time benevolent and penal institutions; to investigate welfare of inmates; report to Bd. of State Charities. '08 p.349, May 9
- xs** O. Establishing Ohio Comn. for the Blind to consist of 5 appointees of Gov., terms 5 years, and supt. of State Institution for the Blind at Columbus; to keep complete register of blind of state with statistics; to aid blind to find employment, to teach industries and ameliorate condition of aged; may establish schools and workshops; annual report. 12§ '08 p.362, May 9
- xt** O. Revising and consolidating laws rel. to State Bds. of Health, of Medical Registration and Examination, of Pharmacy, of Embalming Examiners. 99§ '08 p.492, May 9
- xu** O. Gov. and Senate to appoint State Inspector of Oils; term 2 years; salary \$3500; to inspect oils, gasoline and naphtha; deputies; annual report to Gov.; standards; tests; penalties. Rep.R.S. §394-96. 15§ '08 p.513, May 9
- xv** O. State Bd. of Agric. to consist of 10 *appointees of Gov. and Senate, term 5 years* [forming corp. with perpetual succession]; duties; annual meeting with presidents of county agric. societies; quarterly financial statement. Amds. R.S. §3691 subd.25, 27; §3692. 4§ '08 p.592a, May 1
- xw** Okl. Creating Bd. of Agric. to consist of president elected at gen. election for 4 years and 10 others elected at annual institute for 5 years; salary of president \$2500, of others \$6 per diem; county institutes; bd. to enforce pure food laws and suppress communicable diseases of animals. 14§ '08 ch.3 art.1, Mar.3
- xx** Okl. Creating Comn. of Agric. and Industrial Education to consist of Supt. of Public Instruction, president of Bd. of Agric. and president of Agric. and Mechanical College: to carry out provisions of Const. requiring teaching of agric. and industries in schools. 19§ '08 ch.3 art.3, May 20
- xy** Okl. Rel. to banks: organization and incorp.; powers; liabilities; State Banking Bd. created, to consist of Gov., Lieut. Gov., president of Bd. of Agric., State Treasurer and State Auditor; bd. to have supervision of guaranty fund for protection of depositors; tax for fund; Gov. and Senate to appoint Bank Comr., term 4 years, salary \$2500, duties. 60§ '08 ch.6 art.1, May 26
- xz** Okl. Creating State Banking Bd. to consist of Gov., Lieut. Gov., president of Bd. of Agric., State Treasurer and State Auditor; depositors' guaranty fund established; bd. to levy assmt. of 1% on average daily deposits of bank; special assmts.; new banks to pay 3% of capital; national banks may avail themselves of act; procedure when bank insolvent; gen. regulations; penalties for officers' violations. 19§ '07 ch.6 art.2, Dec.17



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- y** Okl. Creating Bd. of Control to consist of Gov., Atty. Gen. and president of Bd. of Agric.: may remove convicts from Kan.; maintenance of state prisoners in county jails; bd. may work convicts on public works; \$50,000. 7§ '08 ch.22 art.1, May 26
- ya** Okl. Creating Pure Food, Dairy and Drug Comn. to consist of president, sec. and treasurer of Bd. of Agric., Comr. of Health and sec. of Bd. of Pharmacy; adulteration of food and drugs defined; enforcement of laws; laboratory. 66§ '08 ch.37 art.1, May 26
- yb** Okl. Creating State Geological Comn. to consist of Gov., president of State University and Supt. of Public Instruction: State Geologist; survey of geological formation of state with special reference to mineral deposits; biennial report; \$15,000. 8§ '08 ch.41 art.1, May 29
- yc** Okl. Directors of Okl. Library to appoint State Librarian; term 4 years; assistant. '08 ch.51 art.1 May 5
- yd** Okl. Defining duties of Comr. of Labor; creating State Bd. of Arbitration and Conciliation of 6 members appointed by Gov. and Senate; free employment bureau established; regulation of private employment bureaus; inspection of factories. 37§ '08 ch.53 art.1, May 22
- ye** Okl. Creating State Mining Bd. to consist of 2 coal miners, 1 mining engineer, 1 hoisting engineer and 1 coal operator; appointed by Gov., term 4 years; miner to be credited with weight of coal before screening; weighmen and checkweighmen; scales; examination as to competency of certain employees; toilet and wash rooms; convicts not to be employed in mines except quarries. 16§ '08 ch.54 art.1, May 16
- yf** Okl. Creating Bd. of Pardons to consist of Supt. of Public Instruction, president of Bd. of Agric. and State Auditor; Gov. to grant pardons and paroles only on advice of bd. 14§ '08 ch.62 art.1, May 29
- yg** Okl. Creating State Printing Bd. to consist of Gov., State Treasurer and State Auditor; State Printer, salary \$2500; elected at gen. election for 4 years; duties. 5§ '07 ch.65 art.1, Dec.20
- yh** Okl. Establishing State Agency for Sale of Intoxicating Liquors; referendum vote; art.1 to become part of Const. on adoption. 30§. Rejected Nov. 1908. '08 ch.69 art.1, Mar.24  
Submitting same to popular vote, Nov. 1908. '08 p.770, Apr.16
- yi** Okl. State Bd. of Medical Examiners established: 9 members, appointed by Gov., term 4 years; examination and certification of practitioners; revocation of certificate; licensing of peddlers of medicine. Rep. sundry acts. 23§ '08 ch.70a art.1, June 12
- yj** Okl. Amdg. S.'03 §6381: 10 [6] regents of State University. '07 ch.77 art.2, Dec.21
- yk** Okl. Creating Textbook Comn. to consist of Gov. and 6 members appointed by Gov. and Senate for 5 years; to establish uniform textbooks in schools at lowest prices; bids; points considered in adoption; price not to exceed that elsewhere; books adopted must be used. 27§ '08 ch.77 art.8, May 18

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- yn** **Okl.** Creating State Comr. of Health; appointed by Gov., term 4 years, salary \$1800; supervision of health and return of vital statistics; state laboratory; county supt. of health appointed by state comr.; township and city bds. of health; quarantines; nuisances; physicians to report births and deaths. Rep. '03 ch.5, §1-10.  
'08 ch.79 art.2, May 11
- yp** **R. I.** Amdg. G.L. ch.96 §1: State Bd. of Health to consist of 7 [6] members, *1 to be appointed at large*. '08 ch.1519, Mar.10
- yq** **R. I.** Creating State Bd. of Registration in Embalming; 3 members, term 3 years, appointed by Gov. and Senate; unlawful to practise without certificate of bd. 11§ '08 ch.1575, May 19
- yr** **R. I.** Creating Bd. of Food and Drug Comrs.; 3 members, appointed by Gov. and Senate, term 5 years; to enforce pure food and drug law; standards. 15§ '08 ch.1597, May 26
- ys** **S. C.** Gov. to appoint State Health Officer; salary \$2500; to hold office at pleasure of State Bd. of Health; duties of Bd. and Health Officer. 6§ '08 ch.433, Feb.24
- yt** **S. C.** Creating Insurance Comr.: elected by Legis., term 2 years, salary \$2500; regulation of insurance companies. 12§  
'08 ch.434, Feb.24
- yu** **S. C.** Amdg. Const. 1895 art.13 §4: election by people of Adjutant [and Inspector] Gen.; [Gov. and Senate may appoint such staff officers as Legis. directs]. Adopted Nov. 1908. '08 ch.703, Feb.26
- yv** **Va.** Creating State Geological Comn. to consist of Gov., presidents of University of Va., and Va. Polytechnic Institute, supt. Va. Military Institute and 1 appointed by Gov. for 4 years: to have charge of state geological survey; geologist; publication of reports and maps of resources of state; coöperation with U. S. govt.; \$10,000 annually. '08 ch.75, Feb.25
- yw** **Va.** Creating Dept. of Agric. and Immigration under control of Bd. of Agric. consisting of member from each cong. district appointed by Gov. for 4 years and president of Va. College of Agric. and Polytechnic Institute; Comr. of Agric. and Immigration to be elected by people, term 4 years, salary \$2800; dept. employees; institutes; reports. Rep. C. §1785-90. 15§ '08 ch.80, Feb.25
- yx** **Va.** Creating Dairy and Food Comr. in Dept. of Agric. and Immigration: appointed by Gov. and Gen. Assembly, term 4 years; salary \$2500; standards of foods, drinks and commercial feeding stuffs; enforcement. 17§ '08 ch.188, Mar.11
- yy** **Va.** Amdg. '98 ch.225: name of Bd. of Fisheries changed to Comn. of Fisheries; Comr. of Fisheries created, member of bd., salary \$2500; duties. 11§ '08 ch.232, Mar.12
- yz** **Va.** Establishing Bd. of Charities and Corrections: 5 members, appointed by Gov. and Senate, term 5 years; to have visitorial and advisory duties with reference to charitable, correctional and reformatory institutions of state and localities and of chartered associations; annual report to Gov. 16§ '08 ch.276, Mar.13
- z** **Va.** Regulating practice of pharmacy and composition and branding of drugs; Bd. of Pharmacy continued. Rep. C. §1756-66. 37§  
'08 ch.291, Mar.14



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- za    **Va.** Amdg. C. §1713d: Bd. of Health to consist of 12 [7] members; Health Comr. created; appointed by Gov. for 4 years, salary \$3500; executive officer of Bd. of Health; assistants; laboratories; experiments and camps for treatment of tuberculosis; \$40,000 annually. Rep. §1714-18. 5§ '08 ch.361, Mar.14
- zb    **W. Va.** State Tax Comr. to be Chief Inspector and Supervisor of Public Offices; supervision of finances of public institutions and offices; uniform system of public accounting, auditing and reporting. 9§ '08 ch.33, Mar.3

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### Temporary boards and officers

The entries under this head are duplicated under the special subjects to which they pertain. They are grouped here primarily for the use of the document librarian and the student of state administration. *See also* 59, Special investigations.

- a    **Ill.** Gov. to appoint comn. of 15 to arrange celebration at Springfield of 100th anniversary of Lincoln's birthday Feb. 12, 1909. '07(ex.sess.)p.99, Oct.9
- b    **Mass.** Comn. of 3, appointed by Gov., to erect shaft at Baton Rouge, La., to Mass. soldiers and sailors in Dept. of Gulf in Civil War; \$5000. '08 r.42, Mar.19
- c    **Mass.** Gov. and members of Council selected by him to constitute comn. to erect statue of Admiral John Ancrum Winslow in State House; \$6000. '08 r.63, Apr.8
- d    **N. J.** Monument on battlefield of Salem Church and tablet on battlefield of Spottsylvania to 15th N. J. V.; Gov. to appoint comn. of 6, 3 survivors of regiment; report to Legis. on completion; \$6500. 5§ '08 ch.110, Apr.8
- e    **N. Y.** Constituting Lake Champlain Tercentenary Comn.: Gov. to appoint 5, temporary president of Senate 3, Speaker of Assembly 3; to celebrate tercentenary discovery of lake, July 1909; coöperation with Canada, Vt. and U. S.; report 1910. '08 ch.149, Apr.22
- f    **N. Y.** Adding to Hudson-Fulton Celebration Comn., as provided by '06 ch.325, mayors of cities and presidents of certain villages. '08 ch.217, May 6
- g    **N. Y.** Establishing state farm for women over 30 convicted 5 times of minor offenses; Supt. of Prisons, president of State Comn. of Prisons, member of State Bd. of Charities and 2 women to choose site; Supt. of Prisons to have management; officers; work to be outdoor as far as practicable; \$100,000. 12§ '08 ch.467, May 22
- h    **N. C.** Indorsing Alaska-Yukon-Pacific Exposition; Gov. to appoint comn. of 10 to represent N. C. '08 p.157, Jan.31
- i    **O.** Gov. to appoint 5 comrs. to coöperate with citizens of Put-in-Bay to celebrate centennial of Battle of Lake Erie 1913. '08 p.626, Feb.28
- j    **O.** Creating comn. of Gov. and 8 appointed by him, not more than 4 to be of same political party, to urge action by state legislatures and Cong. to call convention to propose amdt. to U. S. Const. looking to election of U. S. senators by direct vote; Cong. requested to call such convention. '08 p.641, May 9



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- k R. I. Amdg. '07 ch.1472; supt. to suppress gipsy and brown tail moths appointed by *State Bd. of Agric.* [Gov. and Senate]. 7§  
'08 ch.1529, Apr.14
- n R. I. Gov. to appoint comn. of 5 to cause to be erected at New Berne, N. C. monument to R. I. soldiers who died in N. C. during Civil War; \$5000. '08 r.6, May 5  
Extra member added. '08 r.7, May 22
- p S. C. Gov. to appoint committee of 5 to establish infirmary for Confederate veterans at Bellevue place on Wallace land; 2 admitted from each county; \$12,000. 3§ '08 ch.485, Feb.18
- q Va. Statue of George Washington to be presented with that of Robert E. Lee to National Statutory Hall at Washington; Lee Statue Comn. continued to procure same; \$10,000. 4§ '08 ch.48, Feb.20
- r Va. Gov. and 4 appointed by him to constitute committee to erect monument to Va. troops on battlefield of Gettysburg; \$10,000. 6§  
'08 ch.151, Mar.9
- s Va. Reappointment of Sec. of Military Records to complete records provided for by '04 ch.70. 6§ '08 ch.158, Mar.10
- t Va. Gov. designated comr. to purchase Trentenove bust of Gen. Fitzhugh Lee for rotunda of Capitol; \$1000. 3§ '08 ch.190, Mar.11

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### Special investigations

The entries under this head are duplicated under the special subject to which they pertain. They are grouped here primarily for the use of the document librarian and the student of state administration.

- a Cal. Joint legis. committee of 6 to make gen. investigation of banking laws; report with recommendations to next Legis.; \$5000.  
'07 (ex.sess.) p.24, Nov.23
- b Ga. Joint legis. committee of 5 to investigate convict system.  
'08 p.1029, July 26  
Report to extra session. '08 p.1033, Aug.17
- c Ga. Comn. to consist of 5 members of Legis. and 4 citizens to investigate feasibility of employment of convicts on extension of Western & Atlantic Railroad; report to next Gen. Assembly; \$2000.  
'08 p.1133, Sept.5
- d Ill. Amdg. '05 p.40 §1, 2: Internal Improvement Comn. to investigate matter of deep waterway from Lake Michigan to Gulf of Mexico continued for 4 years. '07 (ex.sess.) p.33, Dec.24
- e Ill. Committee of 5 appointed by Speaker of House to investigate treatment of inmates of state institutions. '08 p.100, Feb.4
- f Ill. Committee to investigate rights of state in certain navigable waters, development of water power and building of deep waterways; to consist of 10 members of Legis. and 5 appointees of Gov.; report to Gov. Aug. 1, 1908. '07 (ex.sess.) p.103, Oct.16
- g Ill. Joint legis. committee of 10 to recommend legislation to next Gen. Assembly rel. to creation of forest preserve districts.  
'07 (ex.sess.) p.104, Oct.23
- h Ill. Gov. to appoint committee of 10 representing various interests to investigate legislation for health, safety and comfort of employees in factories and mercantile establishments.  
'07 (ex.sess.) p.104, Nov.27

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- i **Ky.** Creating Educational Comm. to consist of 11 officials, including Gov., representative from each house of Legis. and certain educational officers: to investigate school system and educational interests of state; comparative study of other systems; report with recommendation to next Gen. Assembly. 6§ '08 ch.65, Mar.17
- j **La.** Joint legis. committee of 5 to investigate port of 'New Orleans rel. to portage, demurrage, dock, transportation and labor charges and transportation facilities; report 1908; \$25,000. 5§ '07 ch.9, Nov.25
- k **La.** Joint legis. committee of 5 to investigate cost of public printing; to report with recommendations in 10 days. '08 ch.4, May 28
- n **La.** Joint legis. committee of 15 to investigate system of working public roads. '08 ch.6, May 28
- p **La.** Joint legis. committee of 5 to investigate accounts of State Auditor and State Treasurer. '08 ch.7, May 29
- q **La.** Joint legis. committee of 12 to investigate number and needs of Confederate veterans and widows. '08 ch.8, May 29
- r **La.** Joint legis. committee of 9 to investigate Crop Pest Comm. with regard to expenditure of moneys and benefits to agric. interests. '08 ch.9, May 28
- s **La.** Joint legis. committee of 5 to investigate workings of insane asylums at Jackson and Pineville and ascertain if appropriations are sufficient. '08 ch. 10, June 5
- t **La.** Establishing Comm. on Conservation of Natural Resources to consist of professor of horticulture of State University, chief engineer of State Bd. of Engineers and 5 appointees of Gov.; comm. to expire at end of legis. session of 1910; to investigate conservation of specified resources; report to Gen. Assembly 1910; to confer with comms. of other states and U. S.; \$2500. 5§ '08 ch.144, July 2
- u **La.** Gov. to appoint Comr. of La. Military Records; office to expire 1912; to collect and preserve records of La. organizations in war between states and prepare history. 6§ '08 ch.156, July 2
- v **La.** Gov. to appoint 3 lawyers to submit draft of revised C.C.; \$5000 each; report session of 1910; \$20,000. 8§ '08 ch.160, July 2
- w **La.** Instructing Atty. Gen. to investigate alleged discrimination of Tex. Railway Comm. against La. and seek relief from federal authorities. '08 ch.195, July 8
- x **La.** Joint legis. committee of 5 to investigate needs of Soldiers' Home in New Orleans; report 1910. 3§ '08 ch.220, July 8
- y **La.** State officials and institutions not to exceed appropriations nor divert money to purposes other than for which appropriated; chairmen of finance and appropriation committees of Legis. to investigate before next session. '08 ch.303, July 9
- ya **Md.** Gov. to appoint Comm. for Revision of Crim. Law: 3 members, to receive \$2000 each; report next session; \$8000. '08 ch.325 (p.93), Apr.6
- yb **Md.** Continuing for 4 years Comm. for Promotion of Uniformity of Legislation in U. S. 6§ '08 ch.407 (p.148), Apr.8



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- yc Md. Gov. to appoint comn. of 5 to revise laws rel. to desertion and nonsupport of family and trial and detention of children; report to next Legis. '08 ch.486(p.150), Apr.8
- yd Md. Gov. to appoint comn. of 5 to investigate introduction of industrial education in schools; report next session; \$300. '08 ch.367(p.298), Apr.6
- ye Md. Joint legis. committee of 12 to confer with similar committee of Va. Legis. rel. to concurrent oyster legislation. '08 p.1503
- yf Mass. Authorizing Gov. and Council to reimburse members of unpaid comms. and delegates to national meetings. '08 ch.543, May 26
- yg Mass. Directing State Bd. of Insanity to investigate best methods of providing for and treatment of insane; report May 1, 1908. '08 r.34, Mar.14
- yh Mass. Gov. to appoint comn. to consist of 1 member of bar and 2 alienists to revise and codify insanity laws. '08 r.62, Apr.8
- yi Mass. Comrs. on Fisheries and Game to investigate subject of dogfish: methods of extermination; value for commercial purposes; \$10,000. '08 r.69, Apr.13
- yj Mass. Bd. of Railroad Comrs. to investigate freight car service, storage and demurrage and recommend legislation. '08 r.111, May 27
- yk Mass. Highway Comn. to submit consolidation and revision of motor vehicle laws to next Legis. '08 r.127, June 9
- yn Miss. Joint legis. committee to report bill at session of 1910 to equalize salaries of state officers. '08 ch.289, Mar.18
- yp Miss. Joint legis. committee of 10 to report bill at session of 1910 to remedy inequalities of assmt. and taxation. '08 ch.291, Mar.21
- yq N. J. Gov. to appoint 3 lawyers to revise and consolidate public acts; salary \$300 monthly; to submit work at next session for enactment. 8§ '08 ch.58, Apr.2
- yr N. J. Comn. of 9, some of whom may be women, to investigate causes of dependency and criminality; subjects to be considered; report next session; \$5000. 3§ '08 ch.140, Apr.9
- ys N. J. Rep. '05 ch.94 appointing comn. to revise and codify law of master and servant. '08 ch.232, Apr.13
- yt N. J. Creating comn. to coöperate with Pa. and N. Y. authorities rel. to preservation and propagation of fish in Delaware river, to consist of President of Senate, Speaker of Assembly, 5 members of Legis., president of N. J. Fish and Game Comn. and 1 appointee of Gov. '08 p.726, Mar.25
- yu N. J. Creating comn. of 5, appointed by Gov. to confer with N. Y. comn. as to construction of bridges connecting 2 states; \$5000. '08 p.727, Apr.2
- yv N. J. Gov. to appoint comn. of 3 to confer with Pa. comn. as to acquiring of toll bridges over Delaware river by 2 states. 3§ '08 p.730, Apr.8
- yw N. J. Gov. to appoint comn. of 5 to investigate condition of blind and amelioration thereof. 3§ '08 p.731, Apr.9
- yx N. J. Joint legis. committee of 6 to investigate reason for falling off in use of Delaware and Raritan canal; interest of state therein; operation thereof; advisability of legislation to revive its usefulness. '08 p.732, Apr.14



STATE DEPARTMENTS SPECIAL INVESTIGATIONS

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- yy** N. J. Gov. to appoint comm. of 5 to investigate promoting of industrial and technical education; report next Legis. 3§  
'08 p.735, Apr.14
- yz** N. Y. Gov. to appoint comm. of 15 to investigate govt. of N. Y. city and suggest legislation; in its discretion to draft new charter and administrative code; final report to Legis. 1909; \$30,000, to be paid by city. 5§  
'08 ch.114, Apr.13
- z** N. Y. Establishing comm. of 9, appointed by Gov., to inquire into condition and industrial opportunities of aliens in state; \$10,000.  
'08 ch.210, May 6
- za** N. Y. Creating comm. to inquire into procedure of courts of inferior criminal jurisdiction in cities of 1st class, to consist of 2 appointees of Gov., 2 senators, 3 assemblymen; \$15,000. 6§  
'08 ch.211, May 6
- zb** O. Creating comm. of 7 to consist of 3 miners, 3 owners of coal mines and 1 appointed by others to investigate regulation of coal mines and protection of operatives; report to Gov. with recommendations for legislation; \$5000. 4§  
'08 p.321, May 9
- zc** O. Joint legis. committee of 4 to investigate southern division of Ohio canal and report as to whether appropriations should be continued.  
'08 p.618, Jan.30
- zd** O. Joint legis. committee of 6 to investigate charges against Bd. of State School Examiners and State Comr. of Common Schools as to irregularities in issuing teachers certificates and appointing school officers.  
'08 p.620, Feb.6
- ze** O. Joint legis. committee of 6 to investigate charges reflecting on management of Ohio Penitentiary; report present session.  
'08 p.625, Feb.24
- Continued and authority increased; report July 1, 1908.  
'08 p.634, Apr.8
- zf** O. Joint legis. committee of 4 to investigate number of publications printed for depts.; report to Gov.  
'08 p.630, Apr.8
- zg** O. Gov. to appoint comm. of 3 to recommend measures to prevent pollution of Ohio river; Pa., W. Va., Ind. and Ky. requested to coöperate by appointing similar comm.  
'08 p.637, Apr.29
- zh** Okl. Requesting Cong. to call convention to amend U. S. Const. so as to provide for election of U. S. senators; Gov. and 8 appointed by him to constitute Senatorial Direct Election Comm. to urge action by Cong. and other states. 4§  
'08 p.776, Jan.9
- Recommendations of comm. indorsed.  
'08 p.787
- zi** Okl. Joint legis. committee of 6 to investigate rate of insurance on and protection from fire of state educational institutions.  
'08 p.786, Jan.29
- zj** Okl. Joint legis. committee of 4 to investigate Torrens system; report to next Legis.  
'08 p.788, Apr.24
- zk** R. I. Comm. of 4 to investigate equipment, educational value, work and means of enhancing service of R. I. College of Agric. and Mechanic Arts; report session of 1909.  
'08 r.8, May 26
- zn** R. I. Continuing comm. to arrange and consolidate statutes appointed 1906.  
'08 r.10, May 26

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- zp Va. Comn. of 7 appointed by Gov. to devise method for maintenance, management and expansion of higher educational institutions so as to avoid educational duplication and financial waste; report next session; \$500. 4\$ '08 ch.272, Mar.13
- zq W. Va. Joint legis. committee of 5 to investigate tuberculosis hospitals of Eastern States; to secure option on site in state; report at session of 1909. '08 p.250, Feb.17

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## State institutions

See also 335, Corrections; 790, 863, Finance; 2140, Charities; 2220, Education

- a Ill. Committee of 5 appointed by Speaker of House to investigate treatment of inmates of state institutions. '08 p.100, Feb.4
- b N. Y. Amdg. charities law '96 ch.546 §44, 50 rel. to charitable institutions and reformatories: contents of inventories; *managers to hold monthly meetings, to inspect and report to Fiscal Supervisor on abandoned articles.* '08 ch.24, Mar.5
- c Or. Amdg. Const. 1857 art.14 §3: state institutions *not located elsewhere prior to Jan. 1, 1907 to be in county at seat of govt., except when otherwise ordered by Legis. and ratified by electors.* Adopted June 1908. '07 p.505, Feb.13

## 61 Establishment. Reorganization. Change of name

The entries under this head are duplicated under the special subjects to which they pertain. They are grouped here primarily for the use of the document librarian and the student of state administration.

- a Ala. Establishing Ala. Epileptic Colony: Gov. to appoint 3 comrs.; term 4 years; to select site and govern colony; admission; support of patients; transfer from other institutions; \$20,000; \$10,000 annually. 25\$ '07 (ex.sess.) p.164, Nov.30
- b Ga. Establishing and organizing State Sanatorium for treatment of tuberculosis patients; \$25,000. 9\$ '08 p.101, Aug.17
- c Ga. Technical school at Atlanta to be known as State School of Technology. '08 p.1035, Aug.17
- d Ky. Changing name of Agric. and Mechanical College of Ky. to State University, Lexington, Ky.; depts. of law and medicine established; free students; bipartizan bd. of trustees; teachers county certificates may be issued to students. Amds. S.'03 §28. 14\$ '08 ch.3, Mar.16
- e La. Establishing branch of State Experiment Station for investigation of cultivation of rice. '08 ch.113, July 1
- f La. Changing name of La. Institute for the Blind to La. State School for the Blind. '08 ch.238, July 8
- g La. Changing name of La. Institute for the Deaf and Dumb to La. State School for the Deaf. '08 ch.239, July 8
- h La. Amdg. '04 ch.173 §3, 8: name of State Reform School changed to La. Training Institute. '08 ch.293, July 9
- i Md. Establishing Md. Workshop for Blind in Baltimore; govt.; citizens of state over 18 eligible for admission; \$5000 annually. 5\$ '08 ch.566 (p.94), Apr.8



61

- j Md.** Establishing State Normal School No. 3 for colored teachers to be located in Baltimore; annual appropriation \$5000. Adds C. '04 art.77 §189, 190. '08 ch.599 (p.230), Apr.8
- k Mass.** Amdg. '07 ch.474 §5, 7 rel. to erection of 3 sanatoriums for tuberculosis: may be built 1 at time. '08 ch.532, May 19
- n Mass.** State Bd. of Insanity to prepare plans and secure options on sites for acute and curable patients in Metropolitan District. '08 ch.626, June 12
- p Mass.** Gov. and Council to appoint 7 trustees, including 2 women, for terms of 5 years, to purchase site, erect buildings and manage Industrial School for Boys; inmates to be over 15; commitment; parole. 7§ '08 ch.639, June 13
- q N. J.** Providing for engineering building at State Agric. College; \$20,000. '08 ch.95, Apr.6
- r N. J.** Appropriating \$6000 for purchase of Arthur Home (for destitute boys) at Summit. '08 ch.290, Apr.15
- s N. Y.** Appropriating \$220,000 for construction of manufactures and liberal arts building on state fair grounds. '08 ch.18, Mar.5
- t N. Y.** Establishing State School of Agric. at Alfred University; to give courses preliminary to those at State College of Agric. at Cornell University; \$75,000. 4§ '08 ch.200, May 6
- u N. Y.** Establishing State School of Agric. at Morrisville to give courses preliminary to those at State College of Agric. at Cornell University; Gov. and Senate to appoint 5 trustees for 4 years; Comr. of Agric. and director of agric. school at Cornell ex officio trustees; \$20,000. 7§ '08 ch.201, May 6
- v N. Y.** Establishing state farm for women over 30 convicted 5 times of minor offenses; Supt. of Prisons, president of State Comn. of Prisons, member of State Bd. of Charities and 2 women to choose site; Supt. of Prisons to have management; officers; work to be outdoor as far as practicable; \$100,000. 12§ '08 ch.467, May 24
- w O.** Amdg. R.S. §659-61: name of Institution for Education of Deaf and Dumb changed to State School for Deaf; for persons too deaf to be educated in public schools; deaf-blind pupils; time of stay. 4§ '08 p.598, Mar.31
- x Okl.** Establishing Okl. Industrial Institute and College for Girls for white females from 13 to 35 years; govt.; courses. 13§ '08 ch.70 art.1, May 16
- y Okl.** Establishing Okl. School for Deaf. 9§ '08 ch.70 art.2, May 14
- z Okl.** Establishing school of mines and metallurgy at Wilburton. 8§ '08 ch.70 art.3, May 28
- za Okl.** Establishing East Okl. Hospital for Insane; management. 22§ '08 ch.70 art.4, May 6
- zb Okl.** Establishing Whitaker Orphan Home at Pryor Creek for white children and colored orphan home in Logan county; management; admission. 18§ '08 ch.70 art.6, May 18
- zc S. C.** Gov. to appoint committee of 5 to establish infirmary for Confederate veterans at Bellevue place in Wallace land; 2 admitted from each county; \$12,000. 3§ '08 ch.486, Feb.18



63 **Supervision and administration**

- a **Md.** Increasing Bd. of Managers of Md. Tuberculosis Sanatorium from 6 to 7 members. Amds. '06 ch.308.  
'08 ch.328(p.293), Apr.6
- b **N. Y.** State charitable or reformatory institution to be under control of bd. of 7 appointed by Gov. and Senate; term 5 years; either sex eligible; Gov. may remove; reduction or enlargement of present bds. Adds \$50a to state charities law '96 ch.546.  
'08 ch.433, May 20
- c **O.** Govt. of Ohio State Sanatorium and admission of patients.  
9§ '08 p.235, Apr.29

67 **Public documents. Printing**

- a **La.** Joint legis. committee of 5 to investigate cost of public printing; to report with recommendations in 10 days. '08 ch.4, May 28
- b **Md.** Amdg. C.'04 art.78 §1: bid for dept. and legis. printing not to exceed \$22,000 [\$25,000]. '08 ch.206(p.231), Mar.30
- c **Mass.** Amdg. R.L. ch.9 §7 rel. to printing of reports of permanent state officers: 1000 [1500]copies; number may be decreased by officer and Sec. of Commonwealth. '08 ch.444, Apr.24
- d **N. J.** Reports to Gov. to be made 10 days before Jan. 1; when required to be printed to be delivered to legislators on 1st day of session. '08 ch.133, Apr.9
- e **N. Y.** Amdg. state printing law '01 ch.507 §9 rel. to number of copies of message of Gov. and reports of depts. to be printed.  
'08 ch.274, May 18
- f **N. Y.** Amdg. state printing law '01 ch.507 §6, 8 rel. to number of copies of legis. journals, messages and reports to be printed.  
'08 ch.275, May 18
- g **O.** Joint legis. committee of 4 to investigate number of publications printed for depts.; report to Gov. '08 p.630, Apr.8
- h **Va.** Amdg. C. §273: person undertaking public printing to give bond *equal to amount of contract when given by surety company otherwise double amount of contract.* '08 ch.358, Mar.14

68 **State printing boards and officers**

- a **La.** Creating State Printing Bd. to consist of Gov., State Auditor and Sec. of State; letting of contract; gen. regulations. Rep.'81(ex. sess.)ch.6. 24§ '08 ch.184, July 6
- b **N. J.** Creating Dept. of Public Reports: to consist of comr. appointed by Gov. and Senate; term 5 years; salary \$2000; to examine critically, edit and index, with approval of Gov., all official reports; reports to be filed with Sec. of State; comr. to determine parts to be printed. 3§ '08 ch.211, Apr.13
- c **Okl.** Creating State Printing Bd. to consist of Gov., State Treasurer and State Auditor; State Printer, salary \$2500; elected at gen. election for 4 years; duties. 5§ '07 ch.65 art.1, Dec.20

## LEGISLATURE

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### Distribution

*See also 2354, State libraries*

- a **Mass.** Amdg. '07 ch.117 §1, 2 rel. to care and custody of public documents by cities and towns. '08 ch.142, Feb.27
- b **Mass.** Amdg. R.L. ch.9 §8: public documents not to be furnished to city or town voting not to receive same. '08 ch.422, Apr.21
- c **Va.** Rel. to distribution of acts and journals of Gen. Assembly and dept. reports. 3§ '08 ch.351, Mar.14

72

### Manuals. Blue books

- a **Mass.** Assistant registers of courts to receive blue book. '08 ch.173, Mar.5
- b **Mass.** Amdg. R.L. ch.9 §7: Sec. of Commonwealth authorized to sell copies of blue book remaining at price of cost of printing and binding. '08 ch.443, Apr.24

73

### Public and legal advertising

*See also 697, Legal notices*

- a **Va.** Amdg. C. §3358: publication in newspaper required by statute may be proved by certificate of editor, *publisher or business manager*. '08 ch.261, Mar.13

77

## Legislature

*See also 2, Statutes; 2455, Council (municipal)*

79

### Election. Number. Apportionment. Vacancies

- a **Ga.** Amdg. Const. 1877 art.3 §3: House of Representatives to consist of 184 [183] members. Adopted Oct. 1908. '08 p.31, Aug.6
- b **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2 §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: election of members of Legis. *biennial* [annual]; apportionment; term of Gov. 4 [3] years, of county clerks and surrogates 6 [5] years, of sheriffs and coroners 4 [3] years; gen. election for state and county officers in even years, for justices of the peace and munic. officers in odd years. Adds art.7, §2 ¶12-14. 10§  
Not printed in session laws.
- c **R. I.** Referring to next Legis. amdt. to Const. 1842 art.5 §1, art.6 §2, 3 and adding new section; Gov. given veto power; *Lieut. Gov.* [Gov.] to preside over Senate and grand committee; House of Representatives not to exceed 100 [72] members, no town or city to have more than 1/4 [1/6]; Legis. to divide towns and cities into Representative districts in accordance with population. 5§ '08 r.1, Apr.10

83

### United States representatives

- a **Wash.** Declaring unconst. '07 ch.209 §7, 9, 10, 24, 36 as far as relating to direct nomination of candidates for U. S. House of Representatives and Senate. Subject not in title.  
State ex rel. Zent *v.* Nichols 97 P. 728 (1908)

84

### United States senators

- a **Ia.** Amdg. '07 ch.51 §24 rel. to expression of choice for U. S. senator at primary election: if person chosen dies or becomes incapacitated 30 days before following gen. election expression of new choice to be had at such gen. election. '08 ch.1, Sept.10

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- b **La.** Requesting Cong. to call convention to propose amdt. to U. S. Const. providing for direct election of senators.  
'07 ch.4, Nov.25
- c **Md.** Selection of candidates for U. S. senator by different parties on gen. election day. 11§ '08 ch.400(p.137), Apr.8
- d **N. D.** Declaring unconst. '07 ch.109 §3, 4 requiring legis. candidate to take oath to vote for party candidate, chosen at primary, for U. S. senator. Adds qualification for candidate not provided by Const. State ex rel. McCue v. Blaisdell 118 N. W. 141 (1908)
- e **O.** Creating comn. of Gov. and 8 appointed by him, not more than 4 of same political party, to urge action by state legislatures and Cong. to call convention to propose amdt. of U. S. Const. looking to election of U. S. senators by direct vote; Cong. requested to call such convention. '08 p.641, May 9
- f **Okl.** Requesting Cong. to call convention to amend U. S. Const. so as to provide for election of U. S. senators; Gov. and 8 appointed by him to constitute Senatorial Direct Election Comn. to urge action by Cong. and other states. 4§ '08 p.776, Jan.9  
Recommendations of comn. indorsed. '08 p.787
- g **Or.** Instructing members of Legis. to vote for person receiving highest vote for U. S. senator at gen. election. Proposed by initiative petition; adopted June 1, 1908.
- h **Wash.** Declaring unconst. '07 ch.209 §7, 9, 10, 24, 36 as far as relating to direct nomination of candidates for U. S. House of Representatives and Senate. Subject not in title.  
State ex rel. Zent v. Nichols 97 P. 728 (1908)

90

### Members of Legislature

- a **Cal.** Amdg. Const. 1879 art.4 §2, 23: no bill to be introduced in Legis. after 40 [50] days of session except with consent of  $\frac{3}{4}$  [ $\frac{2}{3}$ ]; compensation of members \$1000 annually, \$10 per day for extra session [\$8 per day for not over 60 days]. Adopted Nov. 1908.  
'07 p.1362, Mar.14
- b **Ill.** Compensation of members of Legis. \$1000 per annum; 10c mileage each way; \$50 per session for incidentals.  
'07(ex.sess.)p.85, Dec.6
- c **Kan.** Submitting amdt. to Const. 1859, art.2 §3: compensation of members of the Legis. to be \$500 for regular and \$100 for special session [\$3 per day, but not more than \$150 for regular or \$90 for special session]; mileage 3c [15] per mile. Rejected Nov. 1908.  
'07 ch.431, Mar.9
- d **Mo.** Submitting amdt. to Const. 1875 art.4 §16: compensation of legislators \$750 per annum [\$5 per day first 70 days, \$1 thereafter]. Rejected Nov. 1908. '07 p.457
- e **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §4 ¶7: salary of members of Legis. \$1000 [500] annually.

Not printed in session laws



## LEGISLATURE

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- f **Or.** Submitting amdt. to Const. 1857 art.4 §29: compensation of legislators \$400 *for session* [\$3 per diem not to exceed \$120]; \$10 [\$3] per diem for extra session; *actual traveling expenses* [\$3 for every 20 miles] each way. Rejected June 1908. '07 p.503, Feb.13
- g **S. C.** Members of Gen. Assembly to receive \$200 for regular session and 5c mileage each way; Speaker to receive \$100 additional. '08 ch.491, Feb.26

95

### Internal organization

99

#### Lobbying

- a **Okl.** Prohibiting lobbying; authorized methods of influencing legislation enumerated; agents; bribery. 7§ '08 ch.52 art.1, May 18

100

#### Officers and employees

- a **Cal.** Amdg. Const. 1879 by adding art.4 §23a: expense for employees of Legis. limited to \$500 per day during regular sessions; \$200 for extra sessions. Adopted Nov. 1908. '07 p.1358, Mar.11
- b **Md.** Amdg. C.'04 art.19 §9: report of Comptroller to show name, office and service of each person paid from appropriation for legis. expenses. '08 ch.420(p.17), Apr.6
- c **N. Y.** Amdg. legis. law '92 ch.682 §10: gen. stenographers of Assembly to receive \$3 per day. '08 ch.2, Jan.30
- d **R. I.** Referring to next Legis. amdt. to Const. 1842 art.5 §1, art.6 §2, 3 and adding new section: Gov. given veto power; *Lieut. Gov.* [Gov.] to preside over Senate and grand committee; House of Representatives not to exceed 100 [72] members, no town or city to have more than 1/4 [1/6]; Legis. to divide towns and cities into representative districts in accordance with population. 5§ '08 r.1, Apr.10
- e **Va.** Amdg. C. §184 subd.4-9 rel. to compensation of employees of Legis. '08 ch.4, Jan.24
- f **Va.** Amdg. C. §184 rel. to compensation of clerks of Senate and House of Delegates. '08 ch.115, Feb.29

102

#### Records

- a **Ala.** Legis. journals to be printed in 2 vols. '07(ex.sess.)p.47, Nov.23
- b **Ky.** Chief clerks of Senate and House to keep on file correct journals; to prepare copy of same for printer; compensation. 3§ '08 ch.16, Mar.26
- c **N. Y.** Amdg. legis. law '92 ch.682 §22: legis. documents in custody of clerks deemed original documents. '08 ch.289, May 18
- d **Va.** Authorizing Supt. of Public Printing to furnish for fee advance sheets of legis. acts and journals. 5§ '08 ch.141, Mar.5
- e **W. Va.** Requesting Cong. to allow legis. journals, bills, resolutions etc. to be carried in mails as 2d class matter. '08 p.256, Feb.3

105 Legislative procedure

106 Bills

- a Cal. Amdg. Const. 1879 art.4 §2, 23: no bill to be introduced in Legis. after 40 [50] days of session except with consent of  $\frac{3}{4}$  [ $\frac{2}{3}$ ]; compensation of members \$1000 annually, \$10 per day for extra session [not exceeding \$8 per day for not over 60 days]. Adopted Nov. 1908. '07 p.1362, Mar.14
- b Va. Amdg. C. §210: original bills offered in Gen. Assembly to be kept till close of following session. '08 ch.15, Feb.3
- c W. Va. Requesting Cong. to allow legis. journals, bills, resolutions etc. to be carried in mails as 2d class matter. '08 p.256, Feb.3

107 Reading

- a O. Submitting amdt. to Const. 1851 art.2' by amdg. and dividing §16 into §16 & 18, also renumbering §18-32 as §19-33: *reading of bill on final passage must not*, but on 1st or 2d reading may, be dispensed with on  $\frac{3}{4}$  vote of *members elected to House*. Rejected Nov. 1908. '06 p.412, Mar.20
- b Va. Referring to next Legis. amdt. to Const. 1902 §50: bill before becoming law to be read in each house *by title* [at length] on 3 different days *and at length at least once*. '08 ch.317, Mar.14

108 Enrolling. Engrossing. Printing

- a O. Amdg. R.S. §67: printed bill to be enrolled; number of bills and laws to be printed; distribution. '08 p.39, Mar.5

109 Financial procedure

- a Miss. Concurrent resolution inserting amdt. to Const. 1890 §66 adopted by people Nov. 1906: law granting donation or gratuity requires concurrence of  $\frac{2}{3}$  members *elect* of each branch of Legis. '08 ch.149, Mar.7

111 Method of voting

- a Miss. Providing for automatic electrical roll call to be installed in Senate and in House for use in 1910; \$5000. '08 ch.293, Mar.29

113 Sessions

- a Ala. Submitting amdt. to Const. 1901 §46 and 48, providing for *biennial* [quadrennial] sessions of Legis. 4§. Rejected Nov. 1908. '07 p.909
- b O. Submitting amdt. to Const. 1851 art.2 §25: regular legis. session to commence on 1st Monday in Jan. [biennially in even years] *next after it is chosen*. Rejected Nov. 1908. '06 p.413, Mar.20
- c Va. Referring to next Legis. amdt. to Const. 1902 §46: session of Gen. Assemb'y not to exceed 90 [60] days. '08 ch.93, Feb.27

## Direct legislation

For recall *see also* 38(9)

- a **Me.** Amdg. Const. 1819 art.4 pt.1 §1, pt.3 §1 and adding §16-22 to pt.3: state and local initiative and referendum. Adopted Sept. 1908.  
'07 r.121, Mar.20
- b **Mass.** Protection of forest or sprout lands from fire: fires not to be set in open air between Apr. 1 and Dec. 1 except with permission of forest wardens; exceptions; to be adopted by town on referendum vote. 5§  
'08 ch.209, Mar.14
- c **Mass.** Allowing police of metropolitan park system and of cities and towns except Boston 1 day off duty in 30 in addition to regular annual vacation; referendum. 3§  
'08 ch.476, May 1
- d **Mass.** Authorizing city or town of 10,000 to maintain public playground; referendum. 5§  
'08 ch.513, May 12
- e **Mass.** Amdg. charter of city of Haverhill: preliminary election for nomination of officers; council of 5 to govern; recall; initiative and referendum; adopted by referendum Oct. 1908. 47§  
'08 ch.574, June 3
- f **Mass.** Council govt. for city of Gloucester; initiative and referendum; adopted by vote of electors Nov. 1908. 31§ '08 ch.611, June 11
- g **Minn.** Council of municipality may prohibit bucket shops; 10% of electors may require council to call election on ordinance proposed by such electors prohibiting bucket shops, same to be in force if ratified by voters. 4§  
'07 ch.174, Apr.13
- h **Mo.** Amdg. Const. 1875 by adding section: initiative and referendum. Adopted Nov. 1908. '07 p.452
- i **N. J.** Creating Civil Service Comn. of 4; appointed by Gov. and Senate; term 4 years; salary \$2000; classification of positions; appointments, promotions and removals in state and munic. service to be made according to provisions of act; preference of veterans of Civil War; adoption by municipality by referendum. 33§  
'08 ch.156, Apr.10
- j **N. J.** Referendum for abolition of voting machines in municipality where used. 7§  
'08 ch.163, Apr.10
- k **Okl.** Carrying into effect initiative and referendum provision of Const.; applies to state, counties and municipalities. 21§  
'08 ch.44 art.1, Apr.16
- n **Okl.** Authorizing towns and villages to levy license tax on certain occupations and privileges; initiative and referendum extended to such towns and villages.  
'08 ch.81 art.8, May 26
- na **Tex.** New charter of city of Dallas: comn. govt.; initiative and referendum; recall. 183§  
'07 special laws ch.71, Apr.13

*Propositions*

- p **Cal.** Changing capital from Sacramento to Berkeley. Rejected by people Nov. 1908. '07 ch.98, Mar.6
- q **Ill.** Amdg. '87 p.89 §4, 5, 10, 11 rel. to state banks. Adopted Nov. 1908. 5§  
'07 p.52, June 3
- r **N. C.** Prohibiting manufacture and sale of intoxicating liquors; adopted by referendum vote May 26, 1908. 10§  
'08 ch.71, Jan.31



115

- s **Okl.** Establishing State Agency for Sale of Intoxicating Liquors; referendum vote; art.1 to become part of Const. on adoption. 30§. Rejected Nov. 1908. '08 ch.69 art.1, Mar.24  
Submitting same to popular vote, Nov. 1908. '08 p.770, Apr.16
- t **Okl.** Submitting to vote of people question of securing site for capital city to be owned by state. Adopted Nov. 1908. '08 p.775, May 29
- u **Or.** Rel. to custody and control by sheriff of persons confined in county jails and prisoners held to labor. 3§ '07 ch.41, Feb.16  
Referendum demanded, and law ratified by popular vote June 1, 1908.
- ua **Or.** Amdg. Ann. C. & S. § 3529: annual appropriation for University of Or. \$125,000 [\$47,000]. '07 ch.64, Feb.20  
Referendum demanded, and law ratified by popular vote June 1, 1908.
- ub **Or.** Corporations seeking right of way must as condition precedent to commencing condemnation proceedings grant free transportation to state officers and county judges and sheriffs; certificates of election or copy in lieu of ticket. 5§ '07 ch.66, Feb.20  
Referendum demanded, and law rejected by popular vote June 1, 1908.
- uc **Or.** Appropriating \$100,000 for construction of armories under direction of State Military Bd.; companies etc. to pay rental therefor out of annual allowance. 5§ '07 ch.236, Feb.26  
Referendum demanded, and law rejected by popular vote June 1, 1908.
- v **Or.** Amdg. Const. 1857 art.2 §2: right of suffrage to be extended to women. Proposed by initiative petition; rejected June 1, 1908.
- w **Or.** Amdg. Const. 1857 art.2 §16: authorizing law to provide for majority vote for public officer; to provide for proportional representation of parties; to provide for indication by voter of 2d and 3d choice; to provide simple method of precinct residence and registration. Proposed by initiative petition; adopted June 1, 1908.
- x **Or.** Amdg. Const. 1857 by adding art.2 §18: public officer of state or locality may be recalled at special election held on petition of 25% of electors of state or district. Proposed by initiative petition; adopted June 1, 1908.
- y **Or.** Amdg. Const. 1857 art.7 §18: requiring indictment by grand jury for charge in Circuit Court [Legis. may abolish grand jury]; *district atty. may file amended indictment where original declared defective.* Proposed by initiative petition; adopted June 1, 1908.
- z **Or.** Amdg. Const. 1857 art.9 §1: dwelling houses, outhouses, machinery, buildings used for manufacturing, fences, farm machinery, fruit trees, vines, improvements on farms, live stock, household furniture and workmen's tools exempted from taxation. Proposed by initiative petition; rejected June 1, 1908.
- za **Or.** Amdg. Const. 1857 art.11 §2: municipalities given exclusive right to regulate theaters, race tracks, pool rooms, bowling alleys, billiard halls and sale of liquors subject to local option laws. Proposed by initiative petition; rejected June 1, 1908.

## ELECTIONS

115

**zb** Or. Instructing members of Legis. to vote for person receiving highest vote for U. S. senator at gen. election. Proposed by initiative petition; adopted June 1, 1908.

**zc** Or. Limiting amount to be spent in election; defining corrupt use of money in election; furnishing information to voters concerning candidates and parties, partly at public expense; election contests. Amds. Ann.C.&S. §2775. 55§. Proposed by initiative petition; adopted June 1, 1908.

**zd** Or. To protect salmon and sturgeon. 8§. Proposed by initiative petition; adopted June 1, 1908.

**ze** R. I. Submitting to electors proposition to authorize Legis. to issue \$600,000 of bonds for construction of state highways. Adopted Nov. 1908. '08 r.2, May 21

**zf** R. I. Submitting proposition to authorize issuance of \$300,000 of bonds for permanent improvements at state institutions at Howard. Adopted Nov. 1908. '08 r.3, May 26

**zg** S. D. Msdr. to give theatrical or other performance for admission fee on Sunday. Adopted by referendum vote Nov. 1908. '07 ch.234, Feb.25

**zh** S. D. Close season for quail till 1912. 3§. Adopted by referendum vote Nov. 1908. '07 ch.158, Mar.7

**zi** S. D. Rel. to actions for divorce: plaintiff must be resident of state 1 year, county 3 months; exceptions; hearings and trials, except for interlocutory decree and alimony pendente lite, to be had at regular term. 5§. Adopted by referendum vote Nov. 1908. '07 ch.132, Mar.8

**zj** S. D. Local option for counties; vote at state election; not to affect result of subsequent munic. election; special county election; pharmacists excepted; penalties. Amds. '03 ch.166 §1. 5§. Proposed by initiative petition. Rejected Nov. 1908. '07 ch. 179

## 116 Citizenship. Civil and political rights

*See also 129, Suffrage*

122

### Civil rights

*See also 1238, Race distinction*

**a** R. I. Penalty for unlawfully wearing uniform of U. S. army or navy or state militia; theaters to get written permission from Sec. of State; person in uniform not to be debarred from public conveyance, inn or place of amusement; damages. Adds G.L. ch.283 §30-32. 3§ '08 ch.1562, May 5

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## Elections. Political parties

*See also for term of office, vacancies etc., the various officers under state and local government; also 2225, School elections*

**a** N. J. Amdg. '98 ch.139 §19, 54: organization of election bd.; delivery of ballots by county clerk to munic. clerk. '08 ch.186, Apr.13

**b** N. Y. Amdg. election law '96 ch.909 §113 rel. to time election papers to be preserved. '08 ch.464, May 21

126

- c O. Amdg. R.S. §2966 subd.27: cost of election county charge, except in Nov. of *odd numbered year* to be charge on political subd. '08 p.84, Apr.9
- d Okl. Election law. Rep. sundry acts. 120§ '08 ch.31 art.1, May 29
- e Or. Amdg. Const. 1857 art.2 §16: authorizing law to provide for majority vote for public officer; to provide for proportional representation of parties; to provide for indication by voter of 2d and 3d choice; to provide simple method of precinct residence and registration. Proposed by initiative petition and adopted June 1, 1908.

129

### Suffrage: qualifications

- a Ga. Amdg. Const. 1877 art.2 §1: qualification of electors. 13§. Adopted Oct. 1908. '07 p.47, Aug.21; '08 p.27, Aug.1
- b Md. Submitting amdt. to Const. 1867 art.1 §1 rel. to suffrage: restricted to those 2 [1] years in state, 1 year [6 months] in county *and registered*; registration restricted to those entitled to vote in 1869 and their descendants, persons naturalized since 1869 and their descendants, persons passing educational test, or those paying taxes on \$500. Vote Nov. 1909. '08 ch.26(p. 300), Apr.25
- c Va. Amdg. C. §62 rel. to qualifications of voters at special and local option elections. '08 ch.73, Feb.25

130

### Property. Poll tax

132

#### Poll tax

- a Va. Amdg. '04 ch.89 §1,4 rel. to county treasurer furnishing to Circuit Court clerk lists of persons having poll tax paid 5 months prior to *June or* Nov. election: compensation of clerk. '08 ch.130, Mar.3

134

### Nationality. Race

135

#### Aliens

- a O. Amdg. R.S. §2926h, i: days of registration for election; where naturalization papers filed; need not be produced at registration. '08 p.327, May 9
- b Wis. Amdg. Const. 1848 art.3 §1 ¶2: qualified electors to include [white] persons of foreign birth declaring intention to become citizens *prior to Dec. 1, 1908; proviso* rights hereby granted to cease Dec. 1, 1912. Adopted Nov. 1908. '05 p.994; '07 ch.661, July 16 Ratified. '07 p.1289

142

### Residence

- a Ark. Amdg. Const. 1874 art.21 rel. to qualifications of elector: residence of 1 month in precinct, *town* or ward required. Adopted Sept. 1908. '07 p.1255, Apr.27
- b Md. Amdg. C.'04 art.27 §33 rel. to oath of intention to return of person having removed from state: not to apply to U. S. judge when registered voter of state at time of appointment. '08 ch.285(p.96), Apr.6



## ELECTIONS

146

### Women

*See also* 2225, School elections

- a Or. Amdg. Const. 1857 art.2 §2: right of suffrage to be extended to women. Proposed by initiative petition and rejected June 1, 1908.

149

### Corrupt practices. Election offenses

- a Va. Amdg. '03 ch.98 §9 rel. to immunity of witness testifying in election case. '08 ch.315, Mar.14
- b W. Va. Limitation for indictment for election offense 1 year. '08 ch.18, Feb.29

150

### Corrupt practices acts

All laws requiring candidates or committees to file a statement of election expenses are included under this head. These laws often include miscellaneous election offenses.

- a Ga. Requiring candidates for certain offices at primary or other election to file and publish itemized statement of campaign expenses. 4§ '08 p.63, Aug.15
- b Md. To prevent corrupt practices at primary and gen. elections. Adds C.'04 art.33 §161-75. 15§ '08 ch.122(p.123), Apr.25
- c Mass. Political committee not to solicit money from candidate as prerequisite to giving him nomination papers; penalty. '08 ch.85, Feb.17
- d Mass. Political committee not to employ more than 6 persons in voting precinct or city ward. '08 ch.518, May 14
- e Mo. Declaring unconst. '07 p.261 requiring civic league making report of qualifications of candidate for office to publish source of information. Impairs liberty of speech and press. Ex parte Harrison 110 S.W.709(1908)
- f Or. Limiting amount to be spent in election; defining corrupt use of money in election; furnishing information to voters concerning candidates and parties, partly at public expense; election contests. Amds. Ann. C.&S. §2775. 55§. Proposed by initiative petition; adopted June 1, 1908.
- g W. Va. Corrupt practices act. 19§ '08 ch.22, Mar.3

154

### Corporation funds

- a Ga. Corp. contributions to campaign funds prohibited. '08 p.65, Aug.17
- b Mass. Prohibiting political contributions by business corp. 3§ '08 ch.483, May 1
- c Miss. Prohibiting use of corp. funds for political purposes. '08 ch.124, Mar.19
- d O. Prohibiting corp. from contributing money for political purposes. 3§ '08 p.23, Feb.26

156

### Intimidation

- a Ill. Amdg. '91 p.108 §25: employee to be allowed absence from work to vote at gen. or special election. '08 p.80, June 1

160

**Nominations. Parties**

- a **Md.** Form of ballots; primary law, optionally direct or by convention; applies to certain counties. Amds. C.'04 art.33 §54, 55; adds §160a-w. 25§ '08 ch.737 (p.103), Apr.6
- b **Mass.** Amdg. '07 ch.560 §133, 151 rel. to conduct of primary election. '08 ch.423, Apr.21
- c **Mass.** Amdg. '07 ch.560 §93: state committee of political party may make rules for calling state conventions. '08 ch.428, Apr.21
- d **Miss.** Method of contesting primary election; executive committee of district to determine charges of fraud. '08 ch.136, Mar.21
- e **N. J.** Amdg. '03 ch.248 §33: provisions of election law rel. to recount made applicable to primary elections. '08 ch.310, Apr.16
- f **N. Y.** Amdg. primary election law '98 ch.179 §3 subd.1, 2, 4-7, §4 subd. 1 rel. to places applicable to; enrolment. 7§ '08 ch.456, May 21
- g **N. Y.** Amdg. primary election law '98 ch.179 §4 subd.4: polls open 3 [2] to 9 p.m. '08 ch.463, May 21
- h **Or.** Limiting amount to be spent in election; defining corrupt use of money in election; furnishing information to voters concerning candidates and parties, partly at public expense; election contests. Amds. Ann. C.&S. §2775. 55§. Proposed by initiative petition; adopted June 1, 1908.
- i **S. C.** Amdg. C.C. §258 rel. to registration for primary election on club list. '08 ch.530, Feb.25

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**Direct nominations**

- a **Cal.** Amdg. Const. 1879 art.2 §2½: mandatory for Legis. to enact direct primary laws. Adopted Nov. 1908. '07 p.1271, Mar.6
- b **Ga.** Additional requirements rel. to primary elections: time; registration; official ballot. 7§ '08 p.55, Aug.15
- c **Ill.** Direct nomination of state and local officers except presidential electors, trustees of university and school officers; choice for U. S. senator. Rep. sundry acts. 81§ '08 p.48, Feb.21
- d **Kan.** Direct nominations. Rep. '91 ch.115. 21§ '08 (ex.sess.) ch.54, Feb.1
- e **La.** Amdg. '06 ch.49 §23 rel. to direct nominations: selection of parish comrs. of election; poll lists; returns. '07 ch.27, Dec.4
- f **La.** Amdg. '06 ch.49 §6, 10, 12, 25 rel. to primary elections: judges of Supreme Court; registration of voters; contests; second primary. 4§ '08 ch.100, July 1
- g **Mass.** Candidates for state senator and members of state political committees from 1st Worcester district to be nominated by direct vote. 3§ '08 ch.345, Apr.3
- h **Mass.** Amdg. charter of city of Haverhill: preliminary election for nomination of officers; council of 5 to govern; recall; initiative and referendum; to be adopted by referendum. 47§ '08 ch.574, June 3
- i **Mich.** Direct nominations. Rep.'05 ch.181. 52§ '07 (ex.sess.) ch.4, Oct.24
- j **N. J.** Petition to place name on primary ticket for candidate for chosen freeholder to represent more than one municipality. '08 ch.208, Apr.13

## ELECTIONS

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- k **N. J.** Amdg. '07 ch.281 §3-5 rel. to direct nominations: result of primary election filed with county clerk; latter to canvass returns; indorsement by petition to place name on primary ticket for munic. nomination. 3§ '08 ch.209, Apr.13
- n **O.** Providing for direct nominations. Rep.R.S. §2916-17, 2919-21, 2921a. 45§ '08 p.214, Apr.28
- p **Okl.** Direct nominations and choice of U. S. senators at primary elections. 41§ '08 ch.31 art.2, May 29
- q **S. D.** Declaring unconst. '07 ch.139 §65, 67 rel. to selection of delegates to state and national conventions. Class legislation; delegation of legis. power. *Morrow v. Wipf* 115 N.W.1121 (1908)

163

### Certificates. Vacancies. Filing of nominations

- a **Mass.** Amdg. '07 ch.560 §175: candidate receiving nomination of political party not to have designation of other political party unless regularly nominated by it. '08 ch.425, Apr.21

165

### Nomination fee

- a **S. D.** Declaring unconst. '07 ch.139 §8, 10 rel. to payment of fees for filing nominating petitions. Interferes with right of qualified person to become candidate. *Morrow v. Wipf* 115 N. W. 1121 (1908)  
*Ballinger v. McLaughlin* 116 N. W. 70 (1908)

166

### Nomination papers. Independent nominations

- a **La.** Rel. to independent nominations: signer of petition not to be affiliated with party; papers to be filed on or before primary date. '08 ch.96, July.1

170

## Districts. Notices. Days

171

### Days. Hours

- a **N. J.** Referring to Legis. 1909 amdt. to Const.1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: gen. election for state and county officers in even years, for justices of peace and munic. officers in odd years. Adds art.7 §2 ¶12-14. 10§ Not printed in session laws
- b **N. Y.** Amdg. village law '97 ch.414 §55; polls at village election to be kept open at least 4 consecutive hours between sunrise and 8 p.m. [sunset]. '08 ch.100, Apr.9
- c **Or.** Amdg. Const. 1857 art.2 §14: gen. biennial election *1st Tuesday after 1st Monday in Nov.* [1st Monday in June] beginning 1910; then incumbents of offices except Gov. to hold over to 1st Monday, Jan. 1911. Adopted June 1908. '07 p.503, Feb.23

172

### Districts

- a **O.** Amdg. '91 p.449 §3; R.S. §2923 rel. to election precincts: division where township has less than 400 voters, where municipality lies in 2 counties. '08 p.226, Apr.28



175

## Ballots. Voting

- a **Md.** Amdg. C.'04 art.33 §48, 57, 122 rel. to publishing names of candidates, form of ballot and cards of instructions for voters; certain counties excepted. 3§ '08 ch.614 (p.99), Apr.8
- b **Mass.** Amdg. '07 ch.560 §241 rel. to publication in newspapers of official ballots. '08 ch.461, Apr.28
- c **O.** Amdg. '04 p.37 §3: separate ballots for munic. and township officers. '08 p.399, May 9

179

## Challenge. Oath

- a **N. J.** Amdg. '03 ch.248 §25: county candidate with name on official ballot may act as challenger and may appoint in writing 2 agents as challengers in each district. '08 ch.121, Apr.8

181

## Form

- a **Md.** Form of ballots; primary law, optionally direct or by convention; applies to certain counties. Amds. C.'04 art.33 §54, 55; adds §160a-w. 25§ '08 ch.737 (p.103), Apr.6
- b **O.** Amdg. '02 p.352 §1 rel. to manner of submission of const. amdt.: to be printed in *first column of ballot in language clearly designating* [in party columns to be voted in accordance with action of party convention]. '08 p.120, Apr.15
- c **W. Va.** Amdg. C. ch.3 §34 rel. to form of ballot. '08 ch.21, Feb.29

183

## Marking. Assistance

- a **Md.** Amdg. C.'04 art.33 §71: ballot not to be rejected because part of cross extends beyond square if intersection of lines be within square. '08 ch.576 (p.102), Apr.6

184

## Polls

- a **N. J.** Amdg. '98 ch.139 §8: election not to be held in *building containing* [bar room] inn or saloon. '08 ch.196, Apr.13

185

## Voting machines

- a **Mich.** Amdg. '07 ch.287 §3, 10 rel. to voting machines: construction; independent ballots. '07 (ex.sess.) ch.7, Oct.24
- b **N. J.** Referendum for abolition of voting machines in municipality where used. 7§ '08 ch.163, Apr.10
- c **N. Y.** Amdg. election law '96 ch.909 rel. to use of voting machines. 14§ '08 ch.491, May 23

187

## Registration

- a **Ala.** Rel. to registration of electors. 6§ '07 (ex.sess.) p.68, Nov.23
- b **Ga.** Additional regulations for registration of voters. 10§ '08 p.58, Aug.15
- c **Ky.** Amdg. '04 ch.6 §1: registration of voters required in cities and towns of 1st to 4th [6th] classes. '08 ch.50, Mar.17
- d **La.** Regulating registration; revision of lists; parish registrars of voters. 43§ '08 ch.98, July 1

## ELECTIONS

187

- e S. C. Amdg. C.C. §195: supervisor of registration of municipality to be appointed for 2 years, per diem \$1; registration for special election. '08 ch.449, Feb.26
- f W. Va. Registration of voters. 13§ '08 ch.19, Mar.4

189

### Days. Hours

- a O. Amdg. R.S. §2926h, i: days of registration for election; where naturalization papers filed, need not be produced at registration. '08 p.327, May 9

190

### Lists. Transfers

- a N. J. Registers of voters to be sold as waste paper at end of 5 years. '08 ch.16, Mar.17
- b O. Amdg. R.S. §2926v: deputy supervisors and inspectors may make reasonable provisions for transfers in registration at special election. '08 p.16, Feb.19
- c S. C. Amdg. C.C. §258 rel. to registration for primary election on club list. '08 ch.530, Feb.25
- d Va. Amdg. '03 ch.112 §1: appointment of comrs. to correct registration books on redistricting city. '08 ch.326 Mar.14

192

### Election officers

- a Ky. Amdg. S.'03 §1541 rel. to compensation of election officers. '08 ch.21, Mar.19
- b La. Amdg. '98 ch.152 §11 rel. to bds. of supervisors of elections: not to appoint election officers. '08 ch.99, July 1
- c N. J. Amdg. '98 ch.139 §178 rel. to compensation of election officers. '08 ch.40, Mar.31
- d O. Amdg. R.S. §2926t rel. to compensation of certain election officers. '08 p.512, May 9
- e Va. Amdg. C. §70: chairman of electoral bd. to receive \$2 per day *and expenses for delivering ballots to judges* not to exceed \$20 [\$10] in year. '08 ch.296, Mar.12
- f Va. Amdg. C. §149 rel. to compensation of judges, clerks *and comrs.* of election: \$2 [\$1]; mileage for judges *and comrs.* '08 ch.402, Mar.16

194

### Canvass. Contests

195

### Count. Canvass. Returns

*See also 192, Election officers*

- a N. J. Amdg. '98 ch.139 §96: statement of result of election of senator, assemblyman and munic. officers to be delivered *with ballot boxes* to clerk of municipality. '08 ch.191, Apr.1

196

### Contests

- a N. J. Amdg. '03 ch.248 §33: provisions of election law rel. to recount made applicable to primary elections. '08 ch.310, Apr.16

196

- b **Or.** Limiting amount to be spent in election; defining corrupt use of money in election; furnishing information to voters concerning candidates and parties, partly at public expense; election contests. Amds. Ann. C.&S. §2775. 55§. Proposed by initiative petition and adopted June 1, 1908.

197

## Presidential elections

- a **Okl.** Election and duties of presidential electors. 5§  
'08 ch.31 art.3, May 26

200

## CRIMINAL LAW

Penal Code and Code of Criminal Procedure

- a **La.** Gov. to appoint 3 lawyers to draft C. of Crim. Law, Crim. P. and Crim. Correction; \$5000 each; report at session of 1910; \$20,000. 8§  
'08 ch.161, July 2
- b **Md.** Gov. to appoint Comn. for Revision of Crim. Law: 3 members, to receive \$2000 each; report next session; \$8000.  
'08 ch.325 (p.93), Apr.6

202

## Criminal procedure

For laws applying both to civil and criminal procedure *see* 695, Civil procedure

- a **N. Y.** Creating comn. to inquire into procedure of courts of inferior criminal jurisdiction in cities of 1st class, to consist of 2 appointees of Gov., 2 senators, 3 assemblymen; \$15,000. 6§  
'08 ch.211, May 6

203

## Apprehension, prosecution, indictment

- a **Nev.** Atty. Gen. to have supervisory powers over district attys.; may take charge of prosecution.  
'08 ch.5, Jan.31

207

## Apprehension

- a **S. C.** Munic. police may arrest within 1 mile of corporate limits.  
'08 ch.500, Feb.20

209

## Bail

- a **Miss.** Sheriff may take appeal bonds in case of conviction of msdr. before justice of peace.  
'08 ch.137, Mar.20
- b **N. Y.** Amdg. Crim. P. §550 subd.1 rel. to taking bail by magistrates in criminal case.  
'08 ch.167, Apr.27
- c **O.** Continuous bond in case of indictment to Court of Common Pleas. Adds R.S. §7160a.  
'08 p.356, May 9

212

## Prosecutions

- a **N. Y.** Amdg. county law '92 ch.686 §204: prosecution and expense of criminal trial removed from county; employment of counsel by district atty. Adds §200 subd.4, §205. 3§  
'08 ch.262, May 11



## CRIMINAL PROCEDURE

213

### Grand jury

- a **La.** Directing judges of District Courts, except for parish of Orleans, to fix time of impaneling grand juries. '08 ch.23, June 20
- b **Md.** Amdg. C.'04 art.51 §23: 12 members of grand jury specially summoned to have powers of full number. '08 ch.477 (p.166), Apr.8
- c **Miss.** Amdg. C.'06 §2702 rel. to charge to grand jury: clerk may read in presence of judge when latter physically unable. '08 ch.179, Mar.20
- d **N. Y.** Amdg. Crim. P. §225, 226: grand jury required to be drawn for every term of Supreme Court *except when trial jury not required to be drawn*. '08 ch.49, Mar.23
- e **N. Y.** Substitute for official stenographer for grand jury. Adds §10 to '85 ch.348. '08 ch.446, May 21
- f **Okl.** Selection of grand and petit jurors; jury comrs.; qualifications of jurors. 11§ '07 ch.48 art.2, Dec.21  
Amended. 15§ '08 ch.48 art.3, Feb.20
- g **Okl.** Amdg. S.'03 §5314, 5316, 5349; '08 ch.48 art.3 §10: number of grand jury 12 [to 16], 9 [12] may find indictment; filling vacancy; compensation of jury comrs. 6§ '08 ch.48 art.4, May 29

214

### Indictment

- a **Or.** Amdg. Const. 1857 art.7 §18: requiring indictment by grand jury for charge in Circuit Court [Legis. may abolish grand jury]; *district atty. may file amended indictment where original declared defective*. Proposed by initiative petition and adopted June 1, 1908.

216

## Criminal trials

- a **Mass.** Amdg. R.L. ch.7 §8: Atty. Gen. may make annual report of *such capital trials as he deem expedient*. '08 ch.586, June 4

219

## Evidence

*See also 246, Perjury*

- a **La.** Msdr. for officers to extort confessions from prisoners. '08 ch.109, July 1
- b **N. J.** Amdg. '00 ch.8 §1 which authorizes county to acquire land for certain county buildings: house of detention for witnesses and juveniles awaiting trials and transportation after sentence, included. '08 ch.225, Apr.13
- c **Va.** Where in prosecution for homicide or assault defense introduces evidence showing wrong to have been committed to member of defendant's family, in support of plea of insanity, prosecution may prove falsity of existence of such wrong. '08 ch.59, Feb.20

223

## Witness fees

- a **Okl.** Court may allow fees to defendant's witnesses in criminal case where defendant unable to pay. '08 ch.86 art.1, May 29

223

- b **S. C.** Amdg. Crim. C. §142 which requires officer negligently allowing prisoner to be taken by mob to be tried in county of circuit: compensation of witnesses to be paid by *county* [state] *where case originated*. '08 ch.443, Feb.17
- c **Va.** Amdg. C. §1017a: member of munic. police force not to receive witness fee *for attendance before police justice or justice of peace of his city or town* in criminal case. '08 ch.337, Mar.14

224

## Judgment. Sentence. Execution

225

### Appeals. New trial

- a **N. J.** Amdg. '98 ch.237 §55 rel. to new trials in criminal actions: court may not open or vacate judgment for high msdr. after expiration of term in which entered. '08 ch.217, Apr.13
- b **N. J.** Providing appeal from summary conviction for violation of munic. ordinance. '08 ch.228, Apr.13
- c **O.** Amdg. R.S. §7304, 7358 rel. to bill of exceptions in appeal in criminal case. '08 p.387, May 9
- d **Okl.** Creating Criminal Court of Appeals. 16§  
'08 ch.28 art.1, May 18

226

### Expenses. Costs. Fines

- a **N. J.** Committee of bd. of chosen freeholders on discharge of prisoners to inspect county jail monthly; report to show ability of persons confined for nonpayment of fines to pay; may recommend discharge. '08 ch.229, Apr.13
- b **Va.** Amdg. C. §738: Gov. authorized to remit fine where defendant has died leaving widow and children and collection from estate would impose hardship. '08 ch.101, Feb.29
- c **Va.** Amdg. '04 ch.124 §4, 5 rel. to official receipts for fines: duties of justice of peace; penalty. '08 ch.229, Mar.12

228

### Sentence

*See also* 353, Commitment; 363, System of sentencing and reform

- a **Okl.** Jury may and on request of defendant must fix punishment in criminal case. '08 ch.48 art.1, May 12

229

### Death penalty

- a **Va.** Infliction of death penalty to be by electrocution at State Penitentiary; newspaper to publish only fact of execution without details. 11§  
'08 ch.398, Mar.16

230

### Jury

*See also* 726, Civil procedure

- a **Va.** Amdg. C. §4025 rel. to keeping together juries in certain criminal actions: cost of board not to exceed \$1.25 [\$1] per day per juror. '08 ch.163, Mar.11

231

### Challenge

- a **Miss.** Amdg. C.'06 §1496: state allowed 6 [4] peremptory challenges in case not capital. '08 ch.172, Mar.20
- b **O.** Amdg. R.S. §7277: in criminal case prosecution and defense each to have 4 [2] peremptory challenges. '08 p.348, May 9

233 **Criminal jurisdiction**

- a Md. Where crime committed so close to line as to render location doubtful, county bordering on line first issuing process to have jurisdiction. Adds C. '04 art.27 §433a. '08 ch.408 (p.87), Apr.6
- b Md. Defining jurisdiction of county bounded by navigable waters. 3§ '08 ch.487 (p. 223), Apr.8

234 **Crimes and offenses**

Penalties incidental to enforcement of statutes are not duplicated here, but references to them will be found in the subject index under Penalties.

- a N. J. Comn. of 9, some of whom may be women, to investigate causes of dependency and criminality; subjects to be considered; report next session; \$5000. 3§ '08 ch.140, Apr.9
- b N. J. High msdr. to encourage arson or anarchy or threaten life or property. '08 ch.278, Apr.14

236 **Crimes against the government**

238 **Administration of justice**

240 *Contempt of court*

- a Okl. Providing for trial by jury of person charged with contempt of Supreme Court. 8§ '08 ch.48 art.5, May 26
- b Va. Amdg. C. §4053: authorizing appeal to Supreme Court of Appeals from judgment for contempt of court for disobedience or nonperformance of judgment, decree or order. '08 ch.194, Mar.12

256 **Crimes against public order and security**

*See also 870, Public order*

258 *Disorderly conduct*

- a La. Msdr. to appear at peaceful assembly or on railroad train in intoxicated condition. '08 ch.11, June 3
- b S. C. Amdg. Crim. C. §299 rel. to disorderly conduct in public place. '08 ch.456, Feb.14
- c Va. Amdg. C. §3805: penalty for disturbing religious meeting 10 days to 6 months and not over \$100. '08 ch.16, Feb.3

260 *Vagrancy*

*See also 2158, Unemployed*

- a La. Amdg. '04 ch.178 §1 authorizing munic. corp. or parish to adopt vagrancy ordinance: additional classes of persons declared vagrants. '08 ch.205, July 8

262 *Weapons*

- a Ala. Prohibiting sale or possession of pistol with barrel less than 24 inches, bowie knife, dirk, brass knuckles or slung shots. '07 (ex.sess.) p.80, Nov.23
- b Ky. Amdg. S.'03 §1308: msdr. to discharge deadly weapon in certain public places *except in defense of person or property*. '08 ch.57, Mar.19



262

- c Mass. Penalty for carrying concealed weapons \$25 [\$10] to \$100 or 1 year; weapon confiscated to state. Amds.'06 ch.172 §2.  
'08 ch.350, Apr.3
- d Mass. Amdg. '08 ch.350 §2: sale or destruction of confiscated weapons by chief of district police. '08 ch.583, June 4
- e N. Y. Amdg. Pen. C. §410: msdr. to carry concealed firearms in city, village or town. '08 ch.93, Apr.6
- f R. I. Amdg. G.L. ch.283 §23 which prohibits carrying concealed weapons: knife *with blade over 3 inches long* included.  
'08 ch.1572, May 14
- g Va. Amdg. C. §3780 which prohibits carrying concealed weapons: rural mail carrier exempt; *Circuit* [County] or Hustings Court may grant permission. '08 ch.259, Mar.13
- h Va. Rel. to carrying concealed weapons: metal knucks included; rural mail carriers excepted; judge to have destroyed. Amds. C. §3780. 4§  
'08 ch.385, Mar.14

## 264 Crimes against public morals and the family

*See also* 895, Cruelty to children and animals; 929, Sunday observance

- a La. Concubinage between caucasian and negro felony. 3§  
'08 ch.87, July 1

280

### *Immoral literature and exhibitions*

- a Mass. Prohibiting public advertisement of cure for venereal or sexual disease; exceptions. '08 ch.386, Apr.11

282

### *Polygamy*

- a Md. Requesting Cong. to call convention to amend U. S. Const. rel. to prohibition of polygamy. '08 p.1503

286

### *Rape*

- a La. Amdg. '96 ch.115: felony for person over 18 [17] to have carnal knowledge of unmarried female between 12 and 18 [16], with her consent. '08 ch.84, July 1
- b Md. Amdg. C.'04 art.27 §17: punishment for assault with intent to commit rape death or in discretion of court 2 to 20 years.  
'08 ch.366 (p.77), Apr.6
- c Miss. Amdg. C.'06 §1358 rel. to rape: age of consent 12 [10]; *administration of drug*. '08 ch.171, Mar.21

292

## Crimes against persons

- a Va. Penalty for sending letter threatening bodily harm to person or member of his family. '08 ch.399, Mar.16

294

### *Abduction*

- a La. Amdg. R.S. §805: penalty for kidnapping 20 [5] years.  
'08 ch.86, July 1
- b Va. Msdr. to abduct or aid in escape of inmate of hospital for insane, deaf, dumb or blind. '08 ch.61, Feb.20

## CRIMES AND OFFENSES

- 298 *Blackmail*
- a La. Amdg. '84 ch.63 §1 rel. to extortion by threats against person or member of his family: penalty 1 to 20 [5] years, *not to exceed* \$2000 [\$50 to \$1000]. '08 ch.110, July 1
- 304 *Homicide*
- a N. J. High msdr. to advocate or threaten death of person; penalty 15 years or \$5000. '08 ch.45, Apr.1
- b N. J. Amdg. '98 ch.235 §109: penalty for manslaughter 10 years, at hard labor or otherwise, or \$1000. '08 ch.300, Apr.16
- 308 **Crimes against property**
- a O. Msdr. for stenographer to disclose matter taken by him, without consent of employer. '08 p.20, Feb.26
- 310 *Arson. Destruction by explosives*
- a La. Destruction of place, car or boat containing human beings with dynamite punishable by death. '08 ch.263, July 9
- 312 *Burglary*
- a Md. Amdg. C.'04 art.27 §32a-b: penalty for burglary with explosives 40 [20] years [in discretion of court]. '08 ch.45 (p.78), Mar.3
- b O. Amdg. R.S. §6835 rel. to burglary: penalty; definition. '08 p.98, Apr.10
- c R. I. Amdg. G.L. ch.279 §10 which prohibits *entering or breaking* and entering barn, railroad car, etc. to commit crime. '08 ch.1568, May 6
- d S. C. Felony to enter bank with intent to steal. '08 ch.510, Feb.14
- 314 *Conversion of mortgaged property*
- a Ky. Prohibiting sale or purchase after notice of personal property in possession of vendor with title in another; penalty. '08 ch.9, Mar.24
- b La. Msdr. to dispose of crop pledged to another. '08 ch.192, July 6
- c La. Msdr. for lessee to dispose of crop belonging to lessor for lease of land. '08 ch.211, July 8
- 318 *Defrauding liverymen and hotel keepers*
- a S. C. Msdr. to defraud hotel and boarding house keepers. 3§ '08 ch.496, Feb.21
- 320 *Electric apparatus and power: water and gas mains and meters*
- a Ala. Unlawful to divert without authority or waste gas, steam, electricity or tamper with or injure meter. '07 (ex.sess.) p.160, Nov.30
- b Mass. Amdg. R.L. ch.122 §27 which prohibits interference with property of electric transmission companies: extended to street railways and municipality engaged in manufacture and sale of electricity; increased penalty when committed between 4 p. m. and 7 a. m. '08 ch.233, Mar.18

320

c **Mass.** Amdg. R.L. ch.121 §40: unlawful to injure property of *street railway, electric railroad or private or munic. corp.* engaged in manufacture or sale of electricity. '08 ch.243, Mar.19

d **S. C.** Msdr. to interfere with electrical transmission lines. '08 ch.490, Feb.26

322

*Embezzlement*

a **Ala.** Amdg. C.'96 §4668 rel. to embezzlement by public officers: may deposit money in bank in good faith and with security.

'07(ex.sess)p.162, Nov.23

b **R. I.** Amdg. G.L. ch.279 §16, 18: misappropriation of funds by fiduciary embezzlement. '08 ch.1521, Apr.2

325

*Fraud (miscellaneous)*

*See also* 459, Sale of merchandise

a **O.** Amdg. R.S. §7076a, 7076c: provisions rel. to defrauding hotels extended to hospitals and sanatoriums. '08 p.115, Apr.15

b **O.** Penalty for publishing false financial statements. '08 p.336, May 9

326

*Injury. Trespass. Malicious mischief*

*See also* 468, Torts; 1333, Injury (railroads); 1833, Trespass (agriculture); 1908, Trespass (hunters)

a **R. I.** Penalty for injuring public monument \$500 or 1 year. '08 ch.1542, Apr.24

328

*Larceny and receiving stolen goods*

*See also* 1884, Domestic animals; 1897, Lumber

a **Md.** Msdr. to take fish from boat, live box or net of another. '08 ch.128(p.91), Mar.25

335

## Corrections

*See also* 60, State institutions; 2140, Charities

a **Ga.** Joint legis. committee of 5 to investigate convict system. '08 p.1029, July 26

Report to extra session. '08 p.1033, Aug.17

b **O.** Amdg. sundry sections of R.S. rel. to state benevolent and correctional institutions: admissions; reports; transfers. Rep.'90 p.334. 10§ '08 p.323, May 9

c **O.** Gov. to appoint, annually, committee of 6 women to visit from time to time benevolent and penal institutions; to investigate welfare of inmates; report to Bd. of State Charities.

'08 p.349, May 9

d **Okl.** Comr. of Charities and Corrections to inspect state, local and private penal and charitable institutions annually; powers; employees. 16§ '08 ch.23 art.1, Mar.23

e **Okl.** Creating Bd. of Control to consist of Gov., Atty. Gen. and president of Bd. of Agric.: may remove convicts from Kan.; maintenance of state prisoners in county jails; bd. may work convicts on public works; \$50,000. 7§ '08 ch.22 art.1, May 26

f **R. I.** Submitting proposition to authorize issuance of \$300,000 of bonds for permanent improvements at state institutions at Howard. Adopted Nov. 1908. '08 r.3, May 26



## CORRECTIONS

335

- g **Va.** Establishing Bd. of Charities and Corrections: 5 members, appointed by Gov. and Senate; term 5 years; to have visitorial and advisory duties with reference to charitable, correctional and reformatory institutions of state and localities and of chartered associations; annual report to Gov. 16§ '08 ch.276, Mar.13

341

### State prisons

- a **La.** Amdg. '00 ch.70 §15: \$30,000 [\$15,000] monthly for Bd. of Control of State Penitentiary. '08 ch.197, July 8
  - b **N. Y.** Amdg. R.S. pt.4 ch.3 tit.2 §40, 57, 110 rel. to authority of clerk of Supt. of Prisons and prison employees, and disbursement of prisoners' earnings. 3§ '08 ch.232, May 7
  - c **N. C.** Amdg. Revisal '05 §5063 rel. to bonds issued to purchase prison farms: income need not be applied to payment of interest. '08 ch.76, Feb.1
  - d **O.** Joint legis. committee of 6 to investigate charges reflecting on management of Ohio Penitentiary; report present session. '08 p.625, Feb.24
- Continued and authority increased; report July 1, 1908. '08 p.634, Apr.8

342

### *Employees*

- a **Md.** Amdg. C.'04 art.27 §397: salary of warden of State Penitentiary \$5000 [\$4000]. '08 ch.237 (p.87), Apr.13
- b **Mass.** 60-hour week for employees of state penal institutions. '08 ch.547, May 27
- c **Mass.** Providing for retiring and pensioning officers of state penal institutions and jails. 3§ '08 ch.601, June 9

343

### Reform schools and reformatories

- a **Va.** Amdg. C. §4173 subd.5, 7 rel. to commitment of delinquent negro minors to custody of Negro Reformatory Association. '08 ch.371, Mar.14

345

### *Institutions for women and girls*

- a **N. Y.** Amdg. state charities law '96 ch.546 §137 rel. to disposition of infants of females committed to N. Y. State Training School for Girls. '08 ch.240, May 7
- b **N. Y.** Establishing state farm for women over 30 convicted 5 times of minor offenses; Supt. of Prisons, president of State Comm. of Prisons, member of State Bd. of Charities and 2 women to choose site; Supt. of Prisons to have management; officers; work to be outdoor as far as practicable; \$100,000. 12§ '08 ch.467, May 22

346

### *Reform schools*

- a **La.** Amdg. '04 ch.173 §3, 8: name of State Reform School changed to La. Training Institute. '08 ch.293, July 9
- b **Mass.** Gov. and Council to appoint 7 trustees, including 2 women, for terms of 5 years, to purchase site, erect buildings and manage Industrial School for Boys; inmates to be over 15; commitment; parole. 7§ '08 ch.639, June 13

347

*Reformatories*

- a Mass. Amdg. R.L. ch.220 §27: person convicted of *felony* [crime] more than 3 times not to be sentenced to Reformatory.  
'08 ch.232, Mar.18
- b Mass. Salary of physician of Mass. Reformatory \$2500; to devote entire time.  
'08 ch.426, Apr.21
- c N. J. Rel. to State Reformatory: persons over 30 or previously convicted not to be sentenced to; such inmates to be transferred to State Prison; prisoners not to be confined in dungeon; corporal punishment to be administered only in presence of supt. 3§.  
'08 ch.293, Apr.15

348

**Local institutions**

- a Mass. Providing for retiring and pensioning officers of state penal institutions and jails. 3§  
'08 ch.601, June 9
- b O. Amdg. R.S. §2099 rel. to sentence to county jail or munic. prison.  
'08 p.125, Apr.15
- c O. Providing for religious services in county infirmaries and jails, city prisons and workhouses. 3§  
'08 p.225, Apr.28
- d Va. Amdg. C. §3532 rel. to fees of jailer.  
'08 ch.242, Mar.13
- e Va. Amdg. C. §928 rel. to jails: necessary heating and beds to be supplied.  
'08 ch.271, Mar.13

349

*County and township*

- a N. J. Committee of bd. of chosen freeholders on discharge of prisoners to inspect county jail monthly; report to show ability of persons confined for nonpayment of fines to pay; may recommend discharge.  
'08 ch.229, Apr.13
- b N. J. County may acquire additional land for jail; bond issue to pay for jail.  
'08 ch.277, Apr.14
- c Or. Rel. to custody and control by sheriff of persons confined in county jails and prisoners held to labor. 3§  
'07 ch.41, Feb.16  
Referendum demanded, and law ratified by popular vote June 1, 1908.

352

**Discipline. Instruction. Care of sick**

- a Miss. Amdg. C. '06 §874: white and colored convicts to be kept separate.  
'08 ch.169, Mar.16

353

**Commitment. Transportation. Transfer**

- a Mass. Bd. of Prison Comrs. may delegate to chairman authority to transfer prisoners.  
'08 ch.230, Mar.18

354

**Convict labor**

- a Ala. Amdg. Const. 1901, §93: Legis. may apply net proceeds from state convict fund to construction and maintenance of roads, and may make additional appropriations for same purpose. 3§. Adopted Nov. 1908.  
'07 p.740

## CORRECTIONS

354

- b **Ga.** Comn. to consist of 5 members of Legis. and 4 citizens to investigate feasibility of employment of convicts on extension of Western & Atlantic Railroad; report to next Gen. Assembly; \$2000.  
'08 p.1133, Sept.5
- c **Ga.** Employment of msdr. and felony convicts; former not to be hired to private persons; supervision of Prison Comn. Amds. C.'95 §1039. 23§  
'08 p.1119, Sept.19
- d **Md.** Earnings of prisoner sent to Md. House of Correction for desertion of wife or child may be paid to family. Adds C.'04 art.27 §70a.  
'08 ch.694(p.79), Apr.8
- e **N. Y.** Providing for sale of machinery and apparatus on discontinuance of industry in state prison. Adds §113a to R.S. pt.4 ch.3 tit.2.  
'08 ch.251, May 11

357

### County and municipal convicts

- a **Ala.** Hiring of county convicts. 27§ '07(ex.sess.)p.179, Nov.30
- b **La.** Providing for working of parish convicts on roads, public works or farms within parish. 16§  
'08 ch.204, July 8
- c **Miss.** Amdg. C.'06 §870 rel. to labor of county convicts.  
'08 ch.168, Mar.5
- d **Miss.** Amdg. C.'06 ch.22 rel. to labor of county convicts: contract system abolished; may be used on public work only; duties of sheriff; treatment; allowance of wages; commutation for good behavior. 27§  
'08 ch.109, Mar.20
- e **N. J.** Employment of prisoners in county jail or penitentiary on county work.  
'08 ch. 180, Apr.11
- f **Or.** Rel. to custody and control by sheriff of persons confined in county jails and prisoners held to labor. 3§  
'07 ch.41, Feb.16  
Referendum demanded, and law ratified by popular vote June 1, 1908.
- g **Va.** Amdg. C. §3932 rel. to leasing and composition of munic. and county chain gangs on public works.  
'08 ch.270, Mar.13

358

### Roads

- a **Miss.** Requiring roads from nearest depot to state farm to be kept in condition by convicts on such farm.  
'08 ch.126, Mar.18
- b **Va.** Amdg. C. §4046a: where penalty under 5 [2] years prisoner may be sentenced to work on roads.  
'08 ch.28, Feb.8
- c **Va.** Amdg. '06 ch.74 §10 rel. to working convicts on roads: State Highway Comr. to have authority to have guards discharged; guards to carry out his orders.  
'08 ch.65, Feb.25
- d **Va.** Amdg. '06 ch.74 §3, 4, 7 rel. to state convict road force. 3§  
'08 ch.84, Feb.25

361

### Criminal insane

- a **N. J.** Providing for compensation of physician examining insane convict in State Prison for removal to state hospital for insane.  
'08 ch.47, Apr.1
- b **O.** Amdg. R.S. §7428-29 rel. to removal from Ohio Penitentiary or State Reformatory of insane or epileptic convicts. '08 p.480, May 9



363 **System of sentencing and reform**

For remission of fines *see* 226

- a **O.** Amdg. R.S. §91 rel. to power of Gov. to pardon or commute or suspend sentence of insane *or pregnant* convict. '08 p.3, Jan.8

*Capital punishment, see* 229

366 *Commutation of sentence*

- a **Va.** Person sentenced to work on roads in lieu of jail sentence to be allowed credit for good behavior; when for fine and costs term not to exceed 6 months. '08 ch.354, Mar.14

367 *Discharge*

- a **N. Y.** Amdg. '79 ch.471. §1: prisoner on discharge from county penitentiary to receive *railroad ticket* [4c per mile] to place of conviction *or of no greater distance* [of residence]. '08 ch.94, Apr.6

371 *Juvenile offenders*

*See also* 346, Reform schools; 2172, Children

- a **Ala.** Rep.'07 p.442 defining delinquent children and providing for their arrest and reformation. '07 (ex.sess.) p.49, Nov.23
- b **Ga.** Trial and disposal of delinquent children. 14§  
'08 p.1107, Sept.4
- c **Ky.** Proceedings against person responsible for dependency or delinquency of child. Rep.'06 ch.54. 11§ '08 ch.60, Mar.19
- d **La.** Regulating care and control of neglected and dependent children; trial of adults responsible; Juvenile Courts established. 21§  
'08 ch.83, June 30
- e **La.** Amdg. Const. 1898 by adding article ratifying '08 ch.83 rel. to care and control of neglected and dependent children. Adopted Nov. 1908. '08 ch.245, July 8
- f **Md.** Gov. to appoint comn. of 5 to revise laws rel. to desertion and nonsupport of family and trial and detention of children; report to next Legis. '08 ch.486 (p.150), Apr.8
- g **Md.** Amdg. C.'04 art.42 §18 which defines "minors without proper care and guardianship" and provides for their commitment.  
'08 ch.626 (p.150), Apr.13
- h **Mass.** Authorizing officer arresting child between 7 and 17 years to parole same in custody of parents unless warrant otherwise directs.  
'08 ch.286, Mar.25
- i **R. I.** Msdr. to contribute to delinquency of juvenile.  
'08 ch.1544, Apr.28
- j **Va.** Amdg. C. §4173e subd.5, 7 rel. to commitment of delinquent negro minors to custody of Negro Reformatory Association.  
'08 ch.371, Mar.14

371(3) JUVENILE COURTS. JUVENILE PROBATION

*See also* 374, Probation

- a **Ky.** Treatment and control of dependent, neglected or delinquent children. Rep.'06 ch.64. 23§ '08 ch.67, Mar.19
- b **Mich.** Regulating treatment and control of dependent, neglected and delinquent children. 13§ '07 (ex.sess.) ch.6, Oct.24

## CORRECTIONS

371(3)

- c N. J. Amdg. '03 ch.219 §2 rel. to Juvenile Court: clerk to keep proceedings in separate books; not to be used as evidence except during period defendant placed on probation, or in subsequent criminal action in Juvenile Court. '08 ch.236, Apr.13
- d O. "An act to regulate treatment and control of dependent, neglected and delinquent children. . ." Rep. '04 p.561. 41§  
'08 p.192, Apr.24

371(5)

### SEPARATE DETENTION AND TRIAL

- a N. J. Amdg. '00 ch.8 §1 which authorizes county to acquire land for certain county buildings: houses of detention for witnesses and juveniles awaiting trials and transportation after sentence, included.  
'08 ch.225, Apr.13
- b N. J. Amdg. '06 ch.37 §1, 3, 5 rel. to separate schools of detention for juvenile delinquents in county of 150,000: officers; grounds; shops; records; bond issue; county may contract with private institution. Adds §6. 4§  
'08 ch.307, Apr.16

372

### Parole

- a Ga. Establishing parole system for convicts in Penitentiary; under regulations of Prison Comm. and Gov. 5§ '08 p.1115, Sept.9
- b N. J. Referring to Legis. 1909 amdt. to Const.1844 art.5 ¶10: Gov. and 4 appointed by him for 5 years to constitute Bd. of Pardons; may remit fines and forfeitures, and grant *reprieves*, *commutations*, pardons and *paroles*. Not printed in session laws
- c N. Y. Amdg. R.S. pt.4 ch.3 tit.2 §75, 76 rel. to Bd. of Parole: compensation \$1800 [\$10 per day]; time of meetings. '08 ch.239, May 7
- d Okl. Creating Bd. of Pardons to consist of Supt. of Public Instruction, president of Bd. of Agric. and State Auditor; Gov. to grant pardons and paroles only on advice of bd. 14§ '08 ch.62 art.1, May 29

373

### Pardons

- a Okl. Creating Bd. of Pardons to consist of Supt. of Public Instruction, president of Bd. of Agric. and State Auditor; Gov. to grant pardons and paroles only on advice of bd. 14§ '08 ch.62 art.1, May 29

374

### Probation

*See also 371(3), Juvenile probation*

- a Mass. Amdg. '03 ch.320 § 21 which forbids public service corp. to employ, promote or discharge employee on recommendation of public officer and prohibits latter making recommendation: probation officer, notary public, justice of peace, agents of Prisons Comrs. and Bd. of Charity excepted. '08 ch.228, Mar.18
- b Mass. Amdg. R.L. ch.225 §128 rel. to revocation of liberty permits issued to inmates of state and local prisons. '08 ch.251, Mar.20
- c Mass. Creating Comm. on Probation: 5 members; appointed by Chief Justice of Superior Court; term 5 years; to have gen. supervision of probation officers; latter to report to comm.; report of comm. Rep. R.L. ch.217 §85-90. 6§ '08 ch.465, Apr.28
- d Mass. Providing for appointment of probation officers by certain courts. '08 ch.637, June 13

374

- e N. Y. Amdg. Crim. P. §11a subd.1 rel. to probation officers: *appointment to be in writing*; city, village or county may provide compensation. '08 ch.99, Apr.9
- f O. Probation law. 12§ '08 p.339, May 9

375

## CIVIL LAW

Civil Code and Code of Civil Procedure

- a La. Gov. to appoint 3 lawyers to submit draft of revised C. C.; \$5000 each; report session of 1910; \$20,000. 8§ '08 ch.160, July 2

377

## Property

*See also* 490, Family property

379

## Real property

381

## Tenure. Titles

*See also* 748, Special actions

382

## Eminent domain. Condemnation proceedings

*See also* 1297, Railways; 1361, Street railways

- a La. Taxing jury fees as costs in expropriation proceedings. '08 ch.101, July 1
- b O. Amdg. R.S. §6426 rel. to jury for appropriation of private property to use of corp.: each side allowed 4 [2] peremptory challenges. '08 p.79, Apr.8
- c Okl. Rel. to eminent domain: procedure; extended to pipe line and water companies, political subd., and to private persons for agric., mining and sanitary purposes. Amds. S.'03 §1041. 5§ '08 ch.20 art.1, May 20
- d Tenn. Declaring unconst. '75 ch.142 §11 authorizing exercise of power of eminent domain by corp. organized under act. Authorizes taking of property for private use.  
Alfred Phosphate Co. v. Duck River Phosphate Co. 113 S. W. 410 (1907)

383

## Escheat

- a Okl. Procedure in case of escheat. 7§ '08 ch.32 art.1, May 27

384

## Estates in lands

- a O. Amdg. R.S. §5809 rel. to investment of proceeds of sale of real property subject to contingent remainder. '08 p.20, Feb.26
- b Va. Amdg. C. §2432 rel. to sale of contingent estates and contingent remainders. '08 ch.304, Mar.14

385

## Partition

- a Md. Partition may be had of some or all of several tracts of land. Adds C.'04 art.16 §129a. '08 ch.242 (p.14), Mar.31
- b N. J. Where person entitled to share of proceeds of partition sale is unheard of for 7 years, court may distribute to heirs. '08 ch.312, Apr.16



## REAL PROPERTY

385

- c N. Y. Amdg. C.C.P. §1580, 1633, 2396 rel. to duties of referee for sale of real property in partition or on foreclosure: time within which to file report of distribution; affidavit of sale to contain names of persons to whom proceeds paid. 3§ '08 ch.294, May 18
- d O. Amdg. R.S. §1300 rel. to per diem of appraisers in partition or to assign dower. '08 p.26, Feb.28
- e Tenn. Declaring unconst. '07 ch.403 authorizing life tenant to sue for partition without assent of remaindermen. Deprives of property without due process of law; class legislation.  
McConnell v. Bell 114 S. W. 203 (1908)

386

### Property lines

387

#### Fences. Lawful fences

- a Ky. Amdg. S.'03 §1784: cost of building division fence by one party lien on property of other. '08 ch.30, Mar.20
- b Va. Amdg. C. §2055, 2057 rel. to apportioning cost of division fence. '08 ch.44, Feb.15

391

### Rights of aliens

- a Okl. Right of aliens to own real property. 7§  
'08 ch.49 art.1, May 27

392

### Conveyance

See also 405, Mortgages; 447, Guardianship; 490, Family property; 835, Tax on deeds

- a N. Y. Certified copy of law or decree of foreign country appointing agent for conveyance of real property of such country within this state, presumptive evidence; manner of certification. Adds § 278 to real property law '96 ch.547. '08 ch.85, Mar.18
- b Va. Amdg. C. §2418: conveyance with power of absolute disposition with limitation over as remainder of portion undisposed of at termination of estate. '08 ch.146, Mar.5

393

### Acknowledgments

Including commissioner of deeds

- a N. Y. Amdg. real property law '96 ch.547 §249 subd.5, 6, §250 subd.5 rel. to taking acknowledgments in other state, *territory, Dist. of Columbia or province or territory of Canada*. 3§ '08 ch.61, Mar.26
- b N. Y. Amdg. real property law '96 ch.547 §260 subd.3 rel. to authentication of certificates of acknowledgments of officer of state of U. S., *province or territory of Canada or Dist. of Columbia*. '08 ch.136, Apr.16
- c S. C. Amdg. C.C. §948 rel. to acknowledgments of instruments without state before U. S. ministers and consuls. '08 ch.464, Feb.24

396

### Record

See also 1797, Title insurance; 2497, County records; 2522(5, Recorder

- a Ala. Requiring probate judge to make record of all instruments filed with him entitled to registration. '07(ex.sess.)p.80, Nov.23

396

- b **Ga.** Re-recording of deeds and mortgages where county lines changed. '08 p.95, Aug.17
- c **N. J.** Duplicate of map of real estate in city having block map, filed with recording officer, to be delivered to officer of city having charge of block map. '08 ch.91, Apr.6

398

*Torrens system*

- a **N. Y.** Torrens system of registering land titles. 65§  
'08 ch.444, May 20
- b **Okl.** Joint legis. committee of 4 to investigate Torrens system; report to next Legis. '08 p.788, Apr.24
- c **Okl.** Amdg. Const. 1907 by adding art.5 §61: Legis. authorized to provide Torrens system of land registration. Adopted Nov. 1908.  
'08 p.775, May 26

405

**Liens and mortgages**

- a **La.** Authorizing mortgaging of newspaper plant; foreclosure.  
'08 ch.254, July 8

406

**Foreclosure. Redemption**

- a **N. J.** Referring to Legis. 1909 amdt. to Const.1844 art.4 §7 by striking out ¶10 rel. to vesting certain chancery powers in circuit courts or courts of common pleas. Not printed in session laws
- b **N. Y.** Amdg. C.C.P. §1627 subd.2 rel. to making people party in mortgage foreclosure where state has *interest in or* lien on real property. '08 ch.284, May 18

407

**Real property. Mortgages and trust deeds**

*See also 1279, Railways*

- a **La.** Authorizing lessees obligated to erect buildings to mortgage lease and improvements for term of lease. '08 ch.21, June 15
- b **La.** Amdg. Const. 1898 by adding article: mortgages on real estate in state and loans to policy holders by insurance companies exempt from taxation. Adopted Nov. 1908. '08 ch.62, June 24

409

**Discharge**

- a **Mass.** Amdg. R.L. ch.127 §34 rel. to manner of discharging mortgage on real estate. '08 ch.149, Mar.2

410

**Foreclosure. Redemption**

*See also 736, Judicial sales; 829, Tax sales*

- a **Miss.** Amdg. C.'06 §2772: notice of foreclosure sale to disclose name of mortgagor. '08 ch.180, Mar.20
- b **N. J.** State may be made party defendant in foreclosure of mortgage on escheated land. '08 ch.70, Apr.2
- c **N. Y.** Amdg. C.C.P. §1580, 1633, 2396 rel. to duties of referee for sale of real property in partition or on foreclosure: time within which to file report of distribution; affidavit of sale to contain names of persons to whom proceeds paid. 3§ '08 ch.294, May 18
- d **S. C.** Amdg. C.C. §2736: judge in chambers may render judgment in default of foreclosure case. '08 ch.479, Feb.26

411

Record

- a **La.** Requiring recorders of mortgages to keep direct and inverse indexes; responsible in damages for failure. '08 ch.76, June 30

413

**Personal property. Chattel mortgages**

- a **O.** Amdg. R.S. §4155: chattel mortgage to be refiled every 3 [1] years. '08 p.230, Apr.28
- b **Okl.** Amdg. S.'03 §3583: mortgage of personal property must be *either acknowledged or* witnessed by 2 persons. '08 ch.57 art.2, May 22

419

**Mechanics liens; labor and materials**

- a **Ill.** Declaring unconst. '03 p.230 §17 in so far as it authorizes recovery of atty.'s fees by holder of mechanics lien. Special legislation. *Manowsky v. Stephan* 84 N. E. 365 (1908)
- b **La.** Owner of building in course of construction may require bond of contractor to relieve lien of materialmen and laborers in places under 10,000; action on bond; limitations. 6§ '08 ch.65, June 20
- c **Mass.** Amdg. R.L. ch.197 §10 rel. to courts having jurisdiction of enforcement of liens on buildings. '08 ch.127, Feb.27
- d **N. Y.** Amdg. lien law '97 ch.418 §12 rel. to notice of lien on account of public improvement: of corp. to state address; to be verified. '08 ch.85, Apr.6
- e **N. Y.** Amdg. lien law '97 ch.418 §18 subd.4, §20 subd.5 rel. to discharge of mechanics lien on filing undertaking: service of notice on lienor. '08 ch.254, May 11
- f **Okl.** Mechanics lien. 4§ '08 ch.50.art.1, May 26
- g **Pa.** Declaring unconst. '01 ch.240 §28 giving subcontractor or materialman right to issue attachment against owner or other party indebted to contractor for labor or materials furnished. Special legislation. *Vulcanite Portland Cement Co. v. John W. Allison Co.* 69 A. 855 (1908)
- h **Pa.** Declaring unconst. '01 ch.240 §46 rel. to method for judgment on mechanics lien against public service corp. Special legislation. *Vulcanite Paving Co. v. Philadelphia Rapid Transit Co.* 69 A. 1117 (1908)

421

**Special mechanics and other liens**

- a **La.** Seizure of logs, timber or staves to enforce labor lien. Amds. '90 ch.10. '08 ch.208, July 8
- b **Miss.** Giving persons engaged in sawing, planing, cutting and transporting lumber lien for wages. §3 '08 ch.131, Mar.20
- c **N. Y.** Amdg. lien law '97 ch.418 §32 rel. to notice of lien on vessel: to be filed 90 [30] days after debt *becomes due* [is contracted]. '08 ch.238, May 7
- d **N. Y.** Allowing lien on motor vehicle for storage, repair or furnishing supplies. Adds §75 to lien law '97 ch.418. '08 ch.315, May 19
- e **N. Y.** Giving manufacturers and throwsters lien on silk goods. Adds §75 to lien law '97 ch.418. '08 ch.395, May 20



422

## Landlord and tenant

- a La. Amdg. R.S. §2155 rel. to forcing tenant to yield possession after expiration of lease. '08 ch.313, July 9
- b Md. Amdg. C.'04 art.53 §17 rel. to property exempt from distress for rent. '08 ch.93 (p.167), Mar.18
- c Okl. Giving justice of peace jurisdiction of action for forcible entry and detainer; procedure. 15§ '08 ch.47 art.2, May 20

423

## Succession

*See also* 492, Dower, curtesy

424

## Descent

- a N. J. Amdg. '98 ch.234 §169 rel. to descent where decedent intestate: if no children widow to take *all* [ $\frac{1}{2}$  and  $\frac{1}{2}$  to next of kin of decedent]; *where mother of illegitimate intestate dead her next of kin to take.* '08 ch.316, Apr.16

425

## Devises. Bequests

- a Md. Amdg. C.'04 art.93 §314: right of entry for condition broken and of reverter subject to disposal by will. '08 ch.84 (p.264), Mar.18

426

## Administration of estates

*See also* 836, Inheritance taxes; 1698, Trust companies

- a N. J. Regulating fees and duties of executor or guardian where estate is under \$200. '08 ch.24, Mar.25
- b Va. Grant of letters of administration on estate of person presumed dead on account of absence of 7 years. 7§ '08 ch.294, Mar.12

429

## Probate procedure

- a N. Y. Amdg. C.C.P. §2704 rel. to authentication of wills admitted to probate and letters testamentary issued in foreign countries. '08 ch.270, May 18
- b N. Y. Amdg. C.C.P. §2518 rel. to citation of absent and unknown parties in Surrogates Court. '08 ch.272, May 18

430

## Probate courts and officers

- a Id. Amdg. Const. 1889 art.5 §2, 17, 20, 24; art.18 §6; and rep. art.5 §11, 21: District Court for each county; Probate Court abolished; salaries of Supreme and District Court judges. 9§. Adopted Nov. 1908. '07 p.592, Mar.7
- b Ill. Fees of clerk of Probate Court of county of 3d class; costs may be remitted when estate less than \$2000. '08 p.81, Feb.24
- c Md. Requiring registers of wills to keep proper dockets; fees for entries. Adds C.'04 art.93 §264a. '08 ch.34 (p.263), Feb.27
- d Md. Amdg. C.'04 art.93 §234 rel. to jurisdiction of Orphans Court. '08 ch.125 (p.260), Mar.30
- e N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: term of county clerks and surrogates 6 [5] years; gen. election for state and county officers in even years. Adds art.7 §2 ¶12-14. 10§ Not printed in session laws

## PROPERTY ESTATES

430

- f N. Y. Amdg. '04 ch.692 §1: fee for recording conveyance or mortgage of interest in decedent's estate in Surrogates Court.

'08 ch.173, Apr.28

431

### Probate of wills

- a La. Amdg. C.C. art.1591: women authorized to witness testaments, except married women may not witness wills of husbands.

'08 ch.30, June 20

- b Mass. Amdg. R.L. ch.137 §13: special administrator authorized to pay expenses of executor *or other person* in proving will.

'08 ch.153, Mar.2

433

### Foreign wills

- a Ga. Admitting as muniments for conveyance of real property in state wills probated in foreign jurisdiction.

'08 p.85, Aug.17

435

### Probate bonds

- a Ky. Conditions of official bonds and those given by depositories and fiduciaries.

'08 ch.49, Mar.17

440

## Administration

441

### Administrators and executors

- a Mass. Amdg. R.L. ch.138 §1 rel. to public administrators: not to exceed 5 in same county; term *5 years* [at pleasure of Gov.].

'08 ch.510, May 12

442

### Management and settlement

- a Md. Orphans Court may authorize executor or guardian to compromise claim. Adds C.'04 art.93 §259½.

'08 ch.428 (p.263), Apr.6

- b Mass. Amdg. R.L. ch.141 §6 rel. to arbitrators of claims against estate of deceased: to be awarded reasonable compensation.

'08 ch.313, Mar.28

- c N. Y. Amdg. C.C.P. §2546: surrogate not to appoint referee to examine executor's account rendered unless estate exceed \$1000 or items objected to amount to \$200.

'08 ch.128, Apr.13

- d N. Y. Providing for conveyance of real property by executor where vendee holds contract of sale given by decedent. Adds §2801a to C.C.P.

'08 ch.502, May 23

- e O. Amdg. R.S. §6045: appraiser of estate of deceased to receive \$2 [\$1] per day *or amount probate judge allows*.

'08 p.27, Feb.28

445

## Guardianship

*See also 2172. Children*

- a Va. Amdg. C. §2622a: Circuit [, County] or Corp. Court authorized to pay money to infant without intervention of guardian where amount not over \$300 [\$100].

'08 ch.45, Feb.15

- b Va. Court may approve compromise in action wherein infant, idiot or lunatic party.

'08 ch.307, Mar.14

446 **Insane and incompetent**

*See also* 2205, Insane; 2215, Feeble-minded

- a **Mass.** Probate Court may authorize transfer of property of person under guardianship as spendthrift to wife, child or grandchild on petition of spendthrift. '08 ch.75, Feb.10
- b **N. Y.** Amdg. C.C.P. §2344 rel. to accounting of committee, on death of lunatic. '08 ch.271, May 18
- c **O.** Amdg. R.S. §6306 rel. to sale of real estate of incompetent: *husband or wife* to be made party defendant. '08 p.246, Apr.30

447 **Sale, mortgage and lease of property**

- a **Va.** Amdg. C. §4121 rel. to *lease, exchange, encumbrance* or sale of real property by committee of convict. '08 ch.295, Mar.12

449 **Insolvency. Assignments**

*See also* 523, Corporations; 1273, Railways; 1687, Banking; 1722, Building and loan associations

- a **Mass.** Authorizing payment to Treasurer of Commonwealth of certain moneys deposited in Courts of Insolvency. '08 ch.168, Mar.5
- b **R. I.** Proceedings in insolvency. 62§ '08 ch.1577, May 20

450 **Receivers**

- a **Okl.** Appeal from order appointing or refusing to appoint receiver. '08 ch.73 art.1, June 9

451 **Homesteads. Exemption from execution**

*See also* 741, Attachment

- a **Miss.** Amdg. C.'06 §2141: insurance of deceased to \$5000 [\$3000] exempt from liability for debts. '08 ch.175, Feb.20

453 **Contracts and other obligations**

*See also* 787, Contracts and supplies (public); 835, Tax on deeds and contracts; 1342, Street railways; 2113(5, Employment; 2560, Local finance

456 **Minors**

- a **La.** Amdg. C.C. art.382: minor emancipated by marriage relieved of all disabilities on reaching age of 18. '08 ch.224, July 8

459 **Sale of merchandise**

- a **Ill.** Declaring unconst. '05 p.284 rel. to sale of merchandise in bulk. Deprives of liberty and property without due process of law. Charles J. Off & Co. v. Morehead 85 N. E. 264 (1908)
- b **Md.** Amdg. C.'04 art.83 §18-21 rel. to sales in bulk. 4§ '08 ch.704 (p.243), Apr.8
- c **Mass.** Uniform sale of goods act. Rep. R.L. ch.74 §5. 78§ '08 ch.237, Mar.18



## CONTRACTS

459

- d **Miss.** To prevent fraud of creditors in sale of stock of merchandise in bulk and transfer of insurance policy in case of loss by fire. 4§ '08 ch.100, Mar.6
- e **O.** Amdg. R.S. §6343-44: sale of merchandise in bulk or out of regular course of business fraudulent as to creditors not notified; receiver to be appointed. '08 p.241, Apr.30
- f **O.** Uniform sale of goods act. 76§ '08 p.413, May 9
- g **Okl.** Regulating transfer of merchandise in bulk. Amds. '03 ch.30. 3§ '08 ch.56 art.1, May 26
- h **R. I.** Uniform sale of goods act. 77§ '08 ch.1548, Apr.30
- i **R. I.** On payment of instalment for merchandise bought on instalment plan, receipt must be given showing amount paid and balance due. '08 ch.1596, May 26

459(5)

### Business name

- a **Mass.** Amdg. R.L. ch.539 §2 rel. to recording names of persons doing business under other than own names: foreign association doing express business having duly registered resident agent exempted. '08 ch.316, Mar.28

460

### Agency

460(5)

### Acceptance of commission

- a **N. J.** Msdr. to influence employee improperly by offer of gratuity. '08 ch.284, Apr.15

461

## Money. Interest. Usury

463

### Interest. Usury

- a **Ga.** Msdr. to charge more than 5% interest; exception in favor of pawnbrokers. '08 p.83, Aug.15
- b **La.** Amdg. C.C. §2924: interest paid in excess of authorized rates to be recovered in 2 years [12 months]; usury as defense. '08 ch.68, June 24
- c **Mass.** Providing for licensing of persons engaged in making loans of less than \$200 with interest over 12%; licensing authorities to fix rate of interest; graduated system of bonuses established; assignment of wages for loan under \$200 invalid without written consent of employer and wife. 8§ '08 ch.605, June 11

464

## Negotiable instruments

*See also 1596, Legal holidays*

- a **La.** Amdg. '04 ch.64 §132: acceptance of bill *must* [may] be in writing. '08 ch.189, July 6
- b **Va.** Mailing of protest or dishonor of negotiable instrument equivalent to personal service. '08 ch.23, Feb.8
- c **Va.** Protest, made in state or not, prima facie evidence of presentment, demand, dishonor and notice. '08 ch.274, Mar.13

467

## Suretyship

- a **Okl.** First mortgage on real property to be accepted where bond, indemnity or guaranty required. 3§ '08 ch.57 art.1, Apr.28

468

## Torts

*See also* index under Damages to property

471

### Personal injury

*See also* 2125, Employers liability; 2446, Municipalities; 2728, Roads

- a **La.** Amdg. C.C.art.2315 rel. to survival of right of action for damages to [minor] children, widow, father, mother, *brothers or sisters*: order of preference. '08 ch.120, July 1
- b **Mass.** Extending to actions against persons and corporations provisions as to notice in case of injury caused by snow and ice on premises or adjoining way; service of notice. '08 ch.305, Mar.27
- c **N. J.** Amdg. '48 p.151 §2 rel. to recovery for death of person resulting from wrongful act: where no descendants [or parents] of deceased, widow to recover all. '08 ch.322, Apr.16

474

## Family

476

### Marriage

*See also* 264, Crimes against public morals and the family

- a **N. Y.** Amdg. domestic relations law '96 ch.272 §6 subd.2, 3, §10: justice of peace in city of 100,000 to 1,000,000 not to solemnize marriage; fees for marriage license to be paid into city treasury. '08 ch.73, Apr.2
- b **Okl.** Regulating solemnization of marriage; license; records; between white and colored persons prohibited. Amds. S. '03 §3482-87, 3489-90, 3492-96. 15§ '08 ch.55 art.1, May 22

478

### License

- a **Mass.** Amdg. R.L. ch.204 §25: fee of town clerk for entering notice of intention of marriage or certificate of marriage filed by persons married out of state \$1 [50c]. '08 ch.121, Feb.26

479

### Ceremony. Solemnization

- a **N. C.** Amdg. Revisal '05 §2081, 2089: marriage may be solemnized by ordained *or authorized* minister of church. '08 ch.47, Jan.30
- b **Va.** Amdg. C. §2219 rel. to order of Corp. or County Court authorizing minister to celebrate marriage. '08 ch.39, Feb.15

480

### Divorce

- a **S. D.** Rel. to actions for divorce: plaintiff must be resident of state 1 year, county 3 months; exceptions; hearings and trials, except for interlocutory decree and alimony pendente lite, to be had at regular term. 5§. Adopted by referendum vote Nov. 1908. '07 ch.132, Mar.8

481

### Alimony. Division of property

- a **Md.** Where nonresident sued for divorce his property in state liable for alimony. Adds C.'04 art.16 §15a. '08 ch.324 (p.12), Apr.6

## CORPORATIONS

484

### *Divorce statistics*

- a La. Clerk of court to make return of divorce statistics to Sec. of State. '08 ch.307, July 9
- b Md. Clerk of Circuit Court to keep book of final decrees of divorce. Adds C.'04 art.17 §23a. '08 ch.404 (p.16), Apr.8

490

### **Family property**

- a La. Amdg. R.S. §2495: marital status of parties to be given in acts passed by notaries public. '08 ch.122, July 1

492

### **Dower. Curtesy**

*See also 423, Succession*

- a N. C. Jury may award dower in property other than husband's residence on request of widow. Amds. Revisal '05 §3084. '08 ch.132, Feb.1
- b O. Amdg. R.S. §1300 rel. to per diem of appraisers in partition or to assign dower. '08 p.26, Feb.28

496

### **Support of family**

*See also 2203, Support (insane)*

- a Md. Gov. to appoint comn. of 5 to revise laws rel. to desertion and nonsupport of family and trial and detention of children; report to next Legis. '08 ch.486 (p.150), Apr.8
- b Md. Earnings of prisoner sent to Md. House of Correction for desertion of wife or child may be paid to family. Adds C. '04 art.27 §70a. '08 ch.694 (p.79), Apr.8
- c Mass. Person liable for nonsupport of family may be released on bond conditioned on payment of amounts fixed by court. Revives '05 ch.307 which amended R.L. ch.212 §45. '08 ch.104, Feb.24
- d O. To compel parents to maintain children. R.S. §3140 subd.2; '90 p.216. §§ '08 p.228, Apr.28

497

### **Children: adoption, custody, legitimation**

*See also 2172, Dependent and neglected children*

- a N. Y. Amdg. C.C.P. §1771: where decree of divorce fails to provide for custody and maintenance of children, court may make provision subsequently. '08 ch.297, May 18

498

### **Change of name**

- a Va. Amdg. C. §3138 rel. to change of name: of child whose parents reside in another state; to be entered by court clerk in current deed book; msdr. to assume another name unlawfully. '08 ch.332, Mar.14

500

## **Corporations**

*See also 841, Corporation taxes; 1200, Transportation; 1732, Insurance; 2627, Public utilities*

- a Md. Organization and govt. of corporations. Adds C.'04 art.23 §1-79; rep. and amds. sundry sections of such art. 85§ '08 ch.240 (p.23), Mar.31



500

- b **N. J.** Amdg. '96 ch.185 §27, 28: corp. may change name, change common stock into one or more classes of preferred stock, create classes of preferred stock, fix method of altering bylaws. 3§  
'08 ch.84, Apr.6
- c **N. J.** Amdg. '84 ch.38 §1 rel. to powers of workingmen's co-öperative society. '08 ch.255, Apr.14
- d **Okl.** Transfer corp. records of Indian territory from Supreme Court to Sec. of State. '08 ch.74 art.3, Mar.20
- e **Va.** Amdg. C. §546, 549: license to corp. to state name, whether domestic or foreign, and if latter date of authority to do business.  
'08 ch.221, Mar.12

503 *Amendment and extension of charter. Reorganization*

- a **Cal.** Declaring unconst. '07 ch.274 rel. to extension of corporate existence. Violates Const. art.12 §7.  
Boca Mill Co. v. Curry 97 P. 1117 (1908)
- b **Cal.** Amdg. Const. 1879 art.12 §7: charter of *quasi public* corp. not to be extended; *of others may be extended by written consent of 2/3 of stock.* Adopted Nov. 1908. '07 p.1240, Feb.27

505 *Domicile. Name. Residence of officers*

- a **Mass.** Providing for change of name of corp. by  $\frac{2}{3}$  vote of stock or members; Comr. of Corporations to approve; publication and filing; certain kinds of corporations excepted. '08 ch.163, Mar.3
- b **Okl.** Person or corp. doing business in state deemed domiciled there; license to be revoked on declaration of domicile elsewhere; foreign corp. not to have right of eminent domain. 6§  
'08 ch.16 art.4, May 26

506 *Liability of stockholders*

- a **Md.** Liability of stockholder to be asset of corp.; enforcement. Amds. C. '04 art.23 §64; adds §64a. '08 ch.305 (p.58), Apr.6

507 *Supervision. Reports*

- a **Mass.** Amdg. '03 ch.437 §47, 67 rel. to certificate of condition of corp. of over \$100,000 capital stock. '08 ch.300, Mar.27

509 **Capital. Shares. Debts. Property**

- a **La.** Unlawful for domestic corp. to declare dividends except from cash surplus of profits. 3§ '08 ch.241, July 8
- b **Okl.** Corp. to hold only so much real estate as necessary for business except in incorporated places; real estate corp. to hold only in incorporated places; disposal of real estate acquired by corp. 4§  
'08 ch.13 art.2, May 26

517

**Government**

519

*Officers*

- a **Mass.** Amdg. '07 ch.282 §1 rel. to changes in officers of domestic business corp. '08 ch.180, Mar.6

523

## Dissolution. Insolvency

*See also* 449, Insolvency; 1273, Railways; 1687, Banking; 1722, Building and loan associations

- a **La.** Enforcement of judgment forfeiting charter of corp. 4§  
'08 ch.124, July 2
- b **Miss.** Amdg. C.'06 §913 rel. to action against corp. after dissolution.  
'08 ch.170, Mar.21
- c **Miss.** Amdg. C.'06 §4029: suit against trustee of oustered corp. authorized on obtaining permission of Chancery Court.  
'08 ch.193, Mar.21
- d **N. Y.** Amdg. stock corporations law '90 ch.564 §61 rel. to dissolution of stock corp. by incorporators where some deceased.  
'08 ch.457, May 21
- e **Va.** Amdg. '03 ch.5 §55: corp. not to be dissolved till taxes paid.  
'08 ch.214, Mar.12

525

## Foreign corporations

*See also* 1723, Building and loan associations; 1766, Fire insurance

- a **La.** Amdg. Const. 1898 by adding article: foreign corp. not to remove suit to federal court; penalties. Adopted Apr. 1908.  
'07 ch.10, Nov.25
- b **Mich.** Amdg. '01 ch.206 §9 rel. to foreign corp. doing business in state: penalty; revocation of appointment of agent to receive process to be filed; process may be served on Sec. of State. Adds § 10.  
'07 (ex.sess.) ch.3, Oct.24
- c **Miss.** Foreign public service corp. removing cause to federal court to forfeit right to do business in state and right of eminent domain.  
'08 ch.122, Mar.20

528

## Agents. Office

- a **La.** Amdg. '04 ch.54 §1: agent designated by foreign corp. to be resident of parish where established business; personal or domiciliary service on such agent valid.  
'08 ch.284, July 9
- b **N. J.** Amdg. '96 ch.185 §88: where foreign corp. has no officer, agent or office in state process may be served on servant in discharge of duties in state.  
'08 ch.113, Apr.8

529

## Liabilities

- a **Md.** Amdg. C.'04 art.23 §409 rel. to liability of corp. not chartered doing business in state.  
'08 ch.309 (p.75), Apr.6
- b **Miss.** Amdg. C.'06 §919: right of action against foreign and domestic corporations made equal.  
'08 ch.123, Mar.20

533

## Restrictions

- a **Okl.** Person or corp. doing business in state deemed domiciled there; license to be revoked on declaration of domicile elsewhere; foreign corp. not to have right of eminent domain. 6§  
'08 ch.16 art.4, May 26

583

**Corporations not for profit**

Including religious, educational, social, scientific, benevolent, etc.

*See also* 810, Exemptions from taxation; 1761, Fraternal societies; 1835, Agricultural societies; 2140, Charities; 2337, Education

- a N. J. Dissolution of educational corp. 4§ '08 ch.75, Apr.2
- b O. Amdg. R.S. §3710: justice of peace authorized to appoint special constables to keep peace during fair *or meeting* of agric., industrial, *social or literary* association. '08 p.86, Apr.9
- c O. Amdg. '02 p.133 §1, 2, 4-6 rel. to Chautauqua assemblies. 5§ '08 p.90, Apr.10

583(5)

*Society insignia, ritual and name*

- a Mass. Penalty for fraudulent use of name of society. '08 ch.280, Mar.25
- b Mon. Declaring unconst. Pen.C. §1192 prohibiting unauthorized use of insignia, name or ritual of certain societies. Delegation of legis. power; denies equal protection of laws. State v. Holland 96 P. 719 (1908)
- c N. Y. Msdr. to use name of benevolent corp. for personal advantage; injunction to restrain. Adds §674h to Pen.C. '08 ch.449, May 21
- d O. Amdg. '92 p.84 §1 which prohibits unauthorized use of insignia of certain societies *or any organization of 10 years' standing in state*. '08 p.114, Apr.15
- e Va. Msdr. to use unlawfully insignia of society or trades union. '08 ch.54, Feb.20

585

*Property*

- a Md. Authorizing Courts of Equity to enforce compliance by educational or charitable corp. with conditions subsequent on which gifts have been made. 3§ '08 ch.101 (p.12), Mar.23
- b Md. Limitation of rule against perpetuities rel. to property conveyed to or by charitable or educational corp. Adds C. '04 art.93 §308a. '08 ch.569 (p.265), Apr.6
- c Va. Authorizing incorporated educational institutions to convey real estate in excess of 1000 acres notwithstanding restrictions under which held. '08 ch.29, Feb.8

586

**Religious corporations**

- a N. J. Organization incorporated to aid feeble congregations to secure houses of worship authorized to maintain houses of worship and carry on religious worship and teaching. '08 ch.93, Apr.6
- b N. J. Incorp. and powers of trustees of cathedral church. 5§ '08 ch.132, Apr.9
- c O. Organization and powers of Young Men's Christian Associations. 7§ '08 p.396, May 9

587

*Officers*

- a N. Y. Amdg. membership corporations law '95 ch.559 §90 rel. to election of trustees of Young Men's Christian Associations. '08 ch.36, Mar.18



## COURTS

588

### *Property*

- a **N. Y.** Amdg. religious corporations law '95 ch.723 §11: conveyance of real property between religious corporations authorized.  
'08 ch.363, May 19

589

## Combinations and monopolies

*See also* 1272, Railways; 1342, Street railways; 1593, Discrimination

- a **Ky.** Amdg. '06 ch.117 §3: damages and penalty for breach of contract between persons pooling crops. '08 ch.8, Mar.13
- b **Mass.** Contract to create monopoly in restraint of trade void; Atty. Gen. to bring action to restrain consummation. 4§  
'08 ch.454, Apr.28
- c **Miss.** Amdg. C.'06 §5002 rel. to illegal combinations by corporations, *individuals or associations*: discriminations between localities of state prohibited. '08 ch.119, Feb.28
- d **Miss.** Amdg. C.'06 §5016 rel. to antitrust laws: district attys. and Atty. Gen. to enforce; *jurisdiction of action under conferred on Chancery Court.* '08 ch.204, Mar.21
- e **Okl.** Defining and regulating combinations in restraint of trade. 17§  
'08 ch.83 art.1, June 10

590

## Administration of justice

591

### Practice of law

*See also* 675, Public prosecutor

592

### *Admission to bar*

- a **Ala.** Entitling graduates of law dept. of University of Ala. to practise law. '07 (ex.sess.) p.201, Nov.26
- b **La.** Penalty for unlicensed person to practise as atty.  
'08 ch.66, June 24
- c **Md.** Msdr. to practise law without being admitted to bar. Adds C.'04 art.10 §18a. '08 ch.595 (p.6), Apr.6
- d **Md.** Amdg. C.'04 art.10 §1 rel. to admission to bar: practice of law defined. '08 ch.638 (p.6), Apr.6

594

### *Barratry*

- a **Md.** Barratry defined; punishment \$500 or 3 months. Adds C.'04 art.27 §17a. '08 ch.413 (p.78), Apr.8

600

## Courts

Names and general organizations of courts vary greatly in different states. Courts are here grouped according to actual jurisdiction. The precise names of the courts are preserved in entries.

- a **Id.** Amdg. Const. 1889 art.5 §2, 17, 20, 24; art.18 §6; and rep. art.5 §11, 21: District Court for each county; Probate Court abolished; salaries of Supreme and District Court judges. 9§. Adopted Nov. 1908.  
'07 p.592, Mar.7

600

- b **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.6 §1,2,4-7, art.7 ¶1, 2 rel. to judicial system. Rep. art.7 ¶5, 8. 18§

Not printed in session laws

- c **Okl.** Providing for transfer of causes from territorial to state courts. 14§ '07 ch.16 art.1, Dec.21

Amdg. §1, 2, 5. '08 ch.16 art.3, Mar.12

- d **Or.** Submitting amdt. to Const. 1857 art.7: abolishes County Court; amds. generally provisions as to Supreme and Circuit Courts. 15§. Rejected June 1908. '07 p.506, Feb.19

- e **S. C.** Amdg. C.C. §450: amended court rules to be sent clerks of District Courts within 10 days. '08 ch.458, Feb.19

603

### Reports. Reporters

- a **Mass.** Amdg. R.L. ch.165 §63, 67 rel. to Reporter of Supreme Judicial Court: number of decisions to be published by; expenses \$4500 [\$2000]. '08 ch.358, Apr.4

- b **Okl.** Publication and distribution of Supreme Court reports. 9§ '08 ch.75 art.1, May 29

605

### Supreme courts

Including only those highest in state, of whatever name, e. g. Court of Appeals but not Supreme Court of New York

- a **Mo.** Submitting amdt. to Const. 1875 rel. to composition and procedure of Supreme Court. 8§. Rejected Nov. 1908. '07 p.458

- b **Neb.** Amdg. Const. 1875 art.6 §2, 4, 5, 6 and 13 rel. to Supreme Court: to consist of 7 [3] judges; judges to reside where court is held; time of election; chief justice to be elected as such, and preside during entire term [judge having shortest time to serve to act as chief justice]. 5§. Adopted Nov. 1908. '07 ch.202, Apr.8

606

### Officers

- a **Miss.** Bond of clerk of Supreme Court \$5000. '08 ch.143, Mar.21

- b **N. Y.** Amdg. C.C.P. §199: bond of clerk of Court of Appeals \$5000 [\$25,000]. '08 ch.17, Mar.5

- c **R. I.** Amdg. Court and Practice Act '05 §1241: salary of assistant clerk of Supreme Court not to exceed \$2200 [\$1800].

'08 ch.1564, May 5

*Reports. Reporters, see 603*

608

### Judges

- a **N. J.** Providing for retirement of chancellor and justices of Supreme Court at age of 73 after 21 years service, or on becoming incapacitated during term; pension at rate of  $\frac{1}{3}$  of last salary. 5§

'08 ch.313, Apr.16

- b **N. D.** Amdg. Const. 1889 §89: Supreme Court to consist of 5 [3] judges. Adopted Nov. 1908. '05 p.351, Mar.6; '07 p.458, Mar.23

- c **O.** Amdg. R.S. §411 rel. to designation of chief justice of Supreme Court. '08 p.135, Apr.22

- d **Okl.** Chief justice of Supreme Court to be elected 2d Monday in Jan. of odd numbered years by members of court.

'08 ch.45 art.1, June 3

- e **Va.** Amdg. C. §185: salary of president of Supreme Court of Appeals \$4700 [\$4500]. '08 ch.277, Mar.13

## COURTS

609

### Intermediate courts

For officers and judges *see* 657-94. *See also* 371(3, Juvenile Courts; 373, Pardons; 430, Probate Court; 855, Court of Claims

- a Fla. Submitting amdt. to Const. 1885 art.5 §35: Legis. may establish new judicial circuits. Rejected Nov. 1908. '07 p.768, June 3
- b Nev. Creating additional judicial district. Amds. '07 ch.129 §1-4. 5§ '08 ch.14, Feb.8
- c N. J. Generally amdg. '98 ch.228 rel. to District Courts. 25§ '08 ch.49, Apr.1
- d N. J. Amdg. '98 ch.228 §30: District Courts to have jurisdiction where amount under \$500 [\$300]. '08 ch.190, Apr.13
- e N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.4 §7 by striking out ¶10 rel. to vesting certain chancery powers in circuit courts or courts of common pleas. Not printed in session laws
- f Okl. Creating Criminal Court of Appeals. 16§ '08 ch.28 art.1, May 18
- g Okl. County Court. 22§ '08 ch.27 art.1, June 4
- h S. C. Circuit Court: districts; judges and officers; terms. 10§ '08 ch.435, Feb.19
- i Va. Amdg. C. §3059, 3059a-z, 3059aa-dd rel. to Circuit Court: judge may have jury drawn at other than quarterly terms; judge to have same power in recess as during vacation; terms. 31§ '08 ch.289, Mar.14
- j W. Va. Terms of Circuit Court. 19§ '08 ch.16, Mar.4

645

### Inferior courts

647

#### Coroner. Medical examiner

- a N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 ¶6, 7: term of sheriffs and coroners 4 [3] years; gen. election for state and county officers in even years. Adds art.7 §2 ¶12-14. 10§ Not printed in session laws
- b Va. Amdg. C. §3950 rel. to fees of coroners. '08 ch.363, Mar.14

653

#### Justice of the peace

- a Ky. County Court to fix terms of court held by justice of peace. '08 ch.54, Mar.18
- b Okl. Rel. to justices of peace: districts; election; jurisdiction; fees. Rep. '97 ch.15 §44-46. 7§ '08 ch.47 art.1, May 16
- c Va. Amdg. C. §3500 rel. to fees of notaries and justices of peace. '08 ch.68, Feb.25
- d Va. Amdg. C. §3530 rel. to fees of justice of peace: \$1 [50c] for examination of charge of felony. '08 ch.375, Mar.14

655

#### Municipal and police courts

- a Ky. Amdg. S.'03 §3517: fines and forfeitures recovered for violations committed within police jurisdiction of city of 4th class *where prosecution commenced in Police Court* to be paid to city; *city atty. to represent people on appeal.* '08 ch.25, Mar.19



655

- b Mass. Amdg. R.L. ch.160 §11: assistant clerk of Police, District or Munic. Court may be woman. '08 ch.289, Mar.25
- c Mass. Amdg. R.L. ch.167 §25 rel. to place of return of process issuing from Police, District and Munic. Courts. '08 ch.338, Apr.1
- d S. C. Amdg. C.C. §2004 rel. to appeal from conviction by mayor in Munic. Court to aldermen: majority vote necessary for reversal. '08 ch.452, Feb.14

657

### Court officers

- a W. Va. Sheriff, prosecuting atty., and clerks of County and Circuit Courts to account for all moneys received and pay excess over salary and allowances to sheriff as treasurer; to keep books in form prescribed by Tax Comr. 9§ '08 ch.15, Mar.4

659

### Fees. Salaries

For fees and salary of a particular court officer *see* that head

- a N. J. In county of 65,000 to 150,000 salary of court crier \$900 in lieu of fees. '08 ch.135, Apr.9
- b R. I. Amdg. Court and Practice Act '05 §1241 fixing salaries of judges and clerks of various courts and Supreme Court reporter. '08 ch.1585, May 26
- c Va. Amdg. C. §3508 rel. to fees of sheriffs, sergeants, criers, coroners and constables. '08 ch.299, Mar.13
- d Va. Amdg. C. §3527 rel. to fees of court officers in criminal cases. '08 ch.343, Mar.14

663

### Constable

- a N. J. Constables of town to equal number of justices of peace. '08 ch.129, Apr.9
- b N. J. Providing for election of constables in boroughs; mayor to fill vacancy. '08 ch.275, Apr.14
- c S. C. Allowing constable mileage of 5c for service out of county. '08 ch.480, Feb.26

668

### Judge

*See also* 710, Change of venue or judge

- a Fla. Submitting amdt. to Const. 1885 art.5 §9: salaries of justices of Supreme Court [\$3000], circuit judges [\$2500] and judges of criminal courts of record to be fixed by Legis. Rejected Nov. 1908. '07 p.767, May 27
- b Kan. Submitting amdt. to Const. 1859 art.3 §13: justices of Supreme Court and judges of *all Courts of Record* [District Courts] not to hold any other office *except that of judge of federal court or of state court* during term for which elected. Rejected Nov. 1908. '07 ch.432, Mar.12
- c La. Amdg. Const. 1898 art.134 rel. to allotment of cases among judges of Civil District Court, Orleans parish. Adopted Nov. 1908. '08 ch.280, July 9
- d Md. Amdg. C.'04 art.26 §45: salary of chief judge of 1st 7 judicial districts and judge of Court of Appeals from Baltimore \$5800 [\$4500]. '08 ch.180 (p.76), Apr.1

## COURT OFFICERS

668

- e Mass. Amdg. R.L. ch.158 §10: retirement of justice of Land Court provided for. '08 ch.179, Mar.6
- f N. J. Amdg. '00 ch.140 §16 rel. to salaries of judges of Court of Common Pleas. '08 ch.32, Mar.25
- g N. Y. Referring to next Legis. amdt. to Const. 1894 art.6 §12: provisions rel. to compensation of justices of Supreme Court generally amended. '08 p.1917, Apr.14
- h Okl. Temporary appointment of extra district judges when necessary; district judge performing duties outside district allowed expenses. 3§ '08 ch.46 art.1, May 29
- i Va. Amdg. C. §3059, 3059a-z, 3059aa-dd rel. to Circuit Court: judge may have jury drawn at other than quarterly terms; judge to have same power in recess as during vacation; terms. 31§ '08 ch.289, Mar.14

669

### Notary public

- a N. Y. Amdg. executive law '92 ch.683 §43, 83, 84 rel. to duties of county clerk as to notaries public: disposition of fees; records. 3§ '08 ch.246, May 11
- b Va. Amdg. C. §3500 rel. to fees of notaries and justices of peace. '08 ch.68, Feb.25
- c Va. Amdg. C. §164: U. S. comrs. and, 3d class postmasters may be notaries. '08 ch.360, Mar.14

671

### Clerk of court

- a Ala. Amdg. C. '07 §5993 rel. to clerk of Supreme Court: to pay to State Treasurer *quarterly* [monthly]; *allowed stenographer*. '07 (ex.sess.) p.86, Nov.23
- b Ala. Making provisions rel. to fees of clerks of Circuit Court applicable to clerks of courts having concurrent jurisdiction. Adds '07 p.583 §5. '07 (ex.sess.) p.201, Nov.30
- c Mass. Amdg. R.L. ch.165 §31: clerks of courts authorized to retain expenses from moneys received under naturalization laws. '08 ch.253, Mar.20

675

### Public prosecutor

*See also 50, Attorney general*

- a Col. Declaring unconst. '91 p.221 §1 ¶5 rel. to compensation of district attys. Subject not in title.  
Bd. of Comrs. v. Trowbridge 95 P. 554 (1908)
- b Ky. Amdg. S.'03 §3517: fines and forfeitures recovered for violations committed within police jurisdiction of city of 4th class *where prosecution commenced in Police Court* to be paid to city; *city atty. to represent people on appeal*. '08 ch.25, Mar.19
- c Miss. District atty. or associates in practice of law not to represent public service corp.; penalty \$10 to \$100 and disbarment. '08 ch.129, Mar.21
- d N. J. 2 assistant prosecutors in county having 2 judges of Court of Common Pleas. 3§ '08 ch.90, Apr.6
- e N. J. Amdg. '00 ch.15 §1 rel. to salaries of public prosecutors of certain counties bordering on ocean. '08 ch.149, Apr.10

675

- f N. J. Amdg. '98 ch.237 §158: prosecutor of pleas in county of 80,000 [50,000] may appoint 3 [2] special officers. '08 ch.171, Apr.11
- g N. Y. Amdg. county law '92 ch.686 §202: in county of 65,000 bd. of supervisors may authorize district atty. to appoint additional assistant district attys., detectives, stenographers and interpreters. '08 ch.165, Apr.27
- h N. Y. Amdg. county law '92 ch.686 §204: prosecution and expense of criminal trial removed from county; employment of counsel by district. atty. Adds §200 subd.4, §205. 3§ '08 ch.262, May 11
- i Va. Referring to next Legis. amdt. to Const. 1902 §119, 120: atty. for commonwealth in city [not] eligible for reelection; city treasurer [not] eligible for more than 2 consecutive terms. '08 ch.48, Feb.19
- j Va. Amdg. C. §3528 rel. to fees of attys. for commonwealth. '08 ch.199, Mar.12

691

### Sheriff

- a Miss. Amdg. C.'06 §2176 rel. to fees of sheriff. '08 ch.176, Mar.5
- b N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: term of sheriffs 4 [3] years; gen. election for state and county officers in even years. Adds art.7 §2 ¶12-14. 10§ Not printed in session laws
- c O. Amdg. '06 p.89 §19: sheriff to be allowed car fare in serving process and subpoenaing witnesses. '08 p.73, Apr.8

694

### Stenographer

- a Miss. Amdg. C.'06 §4798: 2 [1] stenographers for Supreme Court. '08 ch.203, Feb.17
- b Miss. Providing for stenographers in Chancery Courts. 4§ '08 ch.130, Mar.20
- c Nev. Declaring unconst. '07 ch.32 rel. to appointment of stenographers by committing magistrate. Subject not in title. State v. Gibson, 96 P. 1057 (1908)
- d N. Y. Amdg. C.C.P. §258: salary of Supreme Court stenographer \$3000 [\$2500]. '08 ch.485, May 23
- e S. C. Special stenographer for Circuit Court in case of disability of regular stenographer. '08 ch.440, Feb.25

695

### Civil procedure

Including such provisions as apply to both civil and criminal cases

*See also* 429, Probate procedure

- a Cal. Declaring unconst. '07(ex.sess.)ch.9 providing that courts be open on special holiday except for action on contract for direct payment of money. Special legislation. Diepenbrock v. Superior Court 95 P. 1121 (1908)

697

### Legal notices

- a La. Service of citation on corp. '08 ch.261, July 8



699

## Commencement of action

701

## Limitations

*See also* special subjects as Mechanics lien, Personal injury, etc.

- a **Miss.** Amdg. C.'06 §721: limitation of 1 year to bring action for injuries resulting in death removed. '08 ch.167, Mar.21
- b **N. Y.** Amdg. village law '97 ch.414 §322: notice of claim against village for negligence to be given within 60 days [6 months]. '08 ch.300, May 18

702

## Parties

- a **N. Y.** Authorizing debtor to bring suit for interpleader of adverse claimants and be discharged from liability on payment of amount into court. Adds §820a to C.C.P. '08 ch.285, May 18

703

## Place of action. Jurisdiction

*See also* Special courts

- a **Ala.** Authorizing bringing of action in contract or tort arising under laws of another state where jurisdiction obtainable in Ala. '07 (ex.sess.) p.67, Nov.23
- b **La.** Amdg. Code of Practice art.165: corp. doing *or failing to do* anything for which action for damages lies may be sued in parish where damage done. '08 ch.108, July 1
- c **Md.** Defining jurisdiction of county bounded by navigable waters. 3§ '08 ch.487 (p.223), Apr.8
- d **Miss.** Amdg. C.'06 §707: action for penalty for cutting and boxing trees, firing woods and for value of trees cut to be brought in county where land situated. '08 ch.166, Mar.21
- e **N. Y.** Amdg. '06 ch.473 §222: action against city of 2d class to be tried in county where city situated. '08 ch.392, May 20
- f **Va.** Amdg. C. §3110: jurisdiction of county *and city* courts over adjacent water courses. '08 ch.376, Mar.14

705

## Summons. Process

- a **La.** Declaring unconst. '00 ch.23 authorizing service on nonresidents by service on agents without authority to receive service or by personal service beyond jurisdiction of court. Not due process of law. *Aikmann v. Sanderson & Porter* 47 S. 600 (1908)
- b **Mass.** Requiring nonresident persons and partnerships in construction business to appoint agents in state on whom legal process may be served. '08 ch.528, May 19
- c **N. J.** Amdg. '96 ch.185 §88: where foreign corp. has no officer, agent or office in state process may be served on servant in discharge of duties in state. '08 ch.113, Apr.8
- d **N. J.** Amdg. '98 ch.228 §46: process may be served on head officer, agent *or any employee* of domestic corp. *in office* in county. '08 ch.116, Apr.8
- e **Okl.** Amdg. S.'03 §4264: summons may be served by leaving copy at defendant's residence *with member of family over 15 years old*. '08 ch.68 art.2, Jan.29  
Same. '08 ch.80 art.1, Jan.29

708 **Trial. Pleadings**

- a **N. J.** Amdg. '03 ch.247 §153: notice of trial to be filed 10 [6] days before term; *causes to be listed in order of return day of summons.* '08 ch.98, Apr.6

710 **Change of venue or judge**

*See also 668, Judges*

- a **La.** Amdg. Const. 1898 by adding article: foreign corp. not to remove suit to federal court; penalties. Adopted Apr. 1908. '07 ch.10, Nov.25
- b **Md.** Before removal of cause to other court all parties to be given opportunity of inspecting record. Adds C.'04 art.75 §102a. '08 ch.417 (p.221), Apr.6
- c **Miss.** Foreign public service corp. removing cause to federal court to forfeit right to do business in state and right of eminent domain. '08 ch.122, Mar.20
- d **O.** Payment of court expenses in case of change of venue in civil action. '08 p.248, Apr.30
- e **Okl.** Amdg. S.'03 §4246-51, 4253-56 rel. to venue in civil actions. 10§ '08 ch.68 art.1, Apr.28
- f **S. C.** Amdg. C.C.P. §88 subd.17: venue may be changed on new trial being granted in Magistrate Court. '08 ch.455, Feb.19

712 **Pleadings. Motions**

- a **La.** In judicial proceeding oath of one of parties joined sufficient. '08 ch.173, July 3
- b **O.** Amdg. R.S. §5109: corp. may verify pleading by agent or atty. '08 p.339, May 9

717 **Evidence. Witnesses**

- a **La.** Examination of opponent, as under cross-examination, does not vouch for credibility or estop from impeaching testimony given. '08 ch.126, July 2

718 **Attendance and fees of witnesses**

- a **Va.** Amdg. C. §3534 rel. to compensation of witnesses for commonwealth. '08 ch.263, Mar.13

720 **Competence. Forms etc.**

- a **Va.** Amdg. C. §3334: copy of record of Corp. Comm. or Bd. of Fisheries attested by proper officer to be received in evidence. '08 ch.338, Mar.14

721 **Depositions. Affidavits**

- a **Ga.** Authorizing taking of depositions in civil cases without commission. 3§ '08 p.84, Aug.17
- b **La.** Amdg. C.C. art.2234: females authorized to witness authentic acts; proces verbals omitted from list of authentic acts. '08 ch.67, June 24
- c **La.** Amdg. Code of Practice art.436 rel. to deposition of witness living out of state: of fugitive from justice may not be taken. '08 ch.105, July 1

721

- d N. J. Amdg. '00 ch.150 §53: expense of taking deposition *may be taxed as costs by prevailing party* [to be paid by party requiring it].  
'08 ch.167, Apr.11

- e Va. Amdg. C. §3361: comm. to take depositions in state where required.  
'08 ch.90, Feb.26

726

### Jury. Verdict

- a Ga. Amdg. C.'95 §4200 rel. to trial of civil case in County Court: *jury of 6 authorized; panel; strikes; [without jury]*. '08 p.41, Aug.17

- b La. Not more than 2 trials by jury allowed in civil case.  
'08 ch.51, June 22

- c S. C. Penalty for failure to attend as juror when summoned by Magistrate or Police Court.  
'08 ch.498, Feb.14

727

### Exemptions

*See also 2614. Firemen*

- a Va. Amdg. C. §3140 rel. to those exempt from jury service: dentists included.  
'08 ch.390, Mar.14

728

### Fees and mileage

- a Cal. Amdg. Const. 1879 art.11 §5: Legis. may fix fees of county officers; also of jurors graded according to class of county, not to exceed \$3 per day. Adopted Nov. 1908.  
'07 p.1276, Mar.8

- b Mass. Compensation of traverse jurors in case of murder in 1st degree.  
'08 ch.353, Apr.3

- c Miss. Amdg. C.'06 §2207: per diem of juror in Chancery or Circuit Court \$3 [\$2.50].  
'08 ch.178, Feb.26

- d Va. Amdg. C. §3160 rel. to compensation of jurors: per diem \$1.50 [\$1], mileage 5c [4c]; attending court in city but not serving \$1 [50c] per day.  
'08 ch.21, Feb.8

730

### Qualifications. Drawing. Impaneling

- a Okl. Selection of grand and petit jurors; jury comrs.; qualifications of jurors. 11§  
Amended. 15§  
'07 ch.48 art.2, Dec.21  
'08 ch.48 art.3, Feb.20

- b Okl. Amdg. S.'03 §5314, 5316, 5349; '08 ch.4 art.3 §10: number of grand jury 12 [16], 9 [12] may find indictment; filling vacancies; compensation of jury comrs. 6§  
'08 ch.48 art.4, May 29

- c Va. Amdg. C. §3531: fee for executing venire facias *at term* \$5 [\$1.50].  
'08 ch.197, Mar.12

- d Va. Amdg. C. §3059, 3059a-z, 3059aa-dd rel. to Circuit Court: judge may have jury drawn at other than quarterly terms; judge to have same power in recess as during vacation; terms. 31§  
'08 ch.289, Mar.14

733

### Appeals. Review

- a Ill. Amdg. '07 p.443 §100 rel. to appeals to Appellate and Supreme Courts.  
'08 p.94, Jan.25

- b Ill. Declaring unconst. '07 p.443 §119 in so far as it requires Supreme Court on appeal in certain cases to consider controverted questions of fact. Deprives of trial by jury.

Patterson v. Warfield 84 N. E. 176 (1908)  
Hayward v. Sencenbaugh 85 N. E. 939 (1908)



733

- c Ill. Declaring unconst. '07 p.443 §120 rel. to appeals to Supreme Court. Denies equal protection of laws.  
     Green *v.* Red Cross Medical Service Co. 83 N. E. 1081 (1908)  
     Hecker *v.* Illinois Cent. R. Co. 83 N. E. 456 (1908)  
     Zolnowski *v.* Illinois Steel Co. 84 N. E. 225 (1908)  
     Hackett *v.* Chicago City Ry. Co. 85 N. E. 320 (1908)  
     Reinhardt *v.* Chicago Junction Ry. Co. 85 N. E. 605 (1908)
- d La. Amdg. Code of Practice art.890 rel. to time for answering appeal in Court of Appeal. '08 ch.103, July 1
- e La. Judges to fix time for return day in civil or criminal case at from 15 to 60 days from date of order. '08 ch.106, July 1
- f La. Amdg. Code of Practice art.1128, 1134-35 rel. to appeals from Justice of Peace Court. 3§ '08 ch.226, July 8
- g La. Clerk of Court of Appeals to furnish certified copy of opinion of court to be filed with original papers. '08 ch.233, July 8
- h La. Trial judge in civil action may grant new trial in 3 days; on retrial unnecessary to reexamine witnesses whose testimony is already reduced to writing. '08 ch.247, July 8
- i O. Amdg. R.S. §5306: same court not to grant more than one reversal on weight of evidence in same case. '08 p.454, May 9
- j S. C. Amdg. C.C. §2004 rel. to appeal from conviction by mayor in Munic. Court to aldermen: majority vote necessary for reversal. '08 ch.452, Feb.14

734

#### Exceptions

- a La. Stenographic notes to be admitted in lieu of bills of exception in civil cases. '08 ch.61, June 24
- b Mass. Rel. to bill of exceptions in Supreme Judicial and Superior Courts '08 ch.177, Mar.5
- c Mass. Notice of filing petition for establishment of disallowed exceptions. '08 ch.516, May 14
- d O. Amdg. R.S. §6565 rel. to bill of exceptions on trial before justice of peace, mayor or police judge: time of motion for; correction. '08 p.78, Apr.8
- e Va. Amdg. C. §3385: signing of bill of exceptions authorized in term time *or vacation*. '08 ch.225, Mar.12

735

#### Judgments

- a La. Judgment of Supreme Court final 15 days after rendition. '08 ch.223, July 8
- b N. Y. Where party entitled to judgment on pleadings court may grant any time after issue joined. Adds §547 to C.C.P. '08 ch.166, Apr.27

736

#### Executions. Judicial sales

*See also* 451, Exemption from execution

- a La. Conduct of public sales. '08 ch.243, July 8
- b N. J. Amdg. '98 ch.228 §173 rel. to stay of execution on judgment in Court of Common Pleas on granting of new trial by District Court. '08 ch.59, Apr.2
- c N. Y. Amdg. C.C.P. §2463: exemption of corp. from examination in supplementary proceedings repealed. '08 ch.278, May 18

737

**Costs. Bonds**

- a **Md.** Where costs awarded against plaintiff in equity proceeding clerk to index plaintiff's name in index of plaintiffs. Adds C.'04 art.16 §201a. '08 ch.661 (p.15), Apr.6
- b **Md.** Amdg. C.'04 art.24 §10 which authorizes taxation as costs of premium on surety bonds. '08 ch.510 (p.76), Apr.8
- c **N. J.** Amdg. '02 ch.158 §92 rel. to action for petition or foreclosure: charges for searches for unpaid taxes may be included in taxable costs. '08 ch.21, Mar.20

738

**Court funds**

- a **N. Y.** Amdg. C.C.P. §744 rel. to payment of moneys into court: Comptroller may bring action to enforce. '08 ch.181, Apr.29
- b **N. Y.** Comptroller authorized to examine accounts of banks rel. to moneys paid into court and require payment of same to county treasurer. Adds §744a to C.C.P. '08 ch.182, Apr.29
- c **N. Y.** Amdg. C.C.P. §745, 747, 2537 rel. to transfer to county treasurer [or deposit or investment] of moneys *or securities* paid into court. '08 ch.183, Apr.29
- d **N. Y.** Amdg. banking law '92 ch.689 §156 subd.6, 11, §157, 158: trust company to receive moneys paid into court only when designated as depository by State Comptroller. 4§ '08 ch.184, Apr.29
- e **N. Y.** Amdg. '89 ch.330 §1, 3 rel. to records of county and surrogate's clerks of moneys paid into court. '08 ch.185, Apr.29
- f **N. Y.** Making county responsible for moneys paid into court. '08 ch.186, Apr.29

739

**Special actions**

741

**Attachment***See also* 451, Exemption from execution

- a **Va.** Amdg. C. §2967 rel. to return day of attachment. '08 ch.222, Mar.12

742

**Garnishment**

- a **N. Y.** Amdg. C.C.P. §1391 providing for garnishment of income of debtor where judgment recovered [for necessities or wages]. '08 ch.148, Apr.22

Condemnation proceedings, *see* 382 ..Contracts, *see* 453Foreclosure, *see* 406, 410Partition, *see* 385Probate procedure, *see* 429

747

**Search warrants**

- a **Mass.** Amdg. R.L. ch.217 §7 rel. to disposition of property seized on search warrant but not intended for unlawful use. '08 ch.370, Apr.8

748 Title and possession of property

*See also* 381

- a **La.** Authorizing institution of suit to establish title to real estate by parties not in possession. '08 ch.38, June 20
- b **Md.** Providing for order of publication where part owner of real property to be disposed of be dead or nonresident. Adds C.'04 art.16 §124a. '08 ch.96(p.14), Mar.18
- c **R. I.** Procedure in action for forcible entry and detainer. Amds. Court and Practice Act '05 §47. 12§ '08 ch.1533, Apr.21
- d **Va.** Conferring on Courts of Equity power to remove clouds on title of real property created by tax sales. '08 ch.43, Feb.15

**Torts, see** 468

749 Writs: certiorari, injunction, mandamus, prohibition, quo warranto, scire facias

- a **Miss.** Amdg. C.'06 §613: state, county *or municipality* not required to give bond to obtain injunction. '08 ch.158, Mar.21
- b **Va.** Amdg. C. §3435a: injunction granted without notice to adverse party *shall* [may] be temporary. '08 ch.30, Feb.8
- c **Va.** Amdg. C. §3456: where judgment appealed from dissolves injunction judge in his discretion may decline to grant suspension of judgment. '08 ch.31, Feb.8
- d **Va.** Amdg. C. §3438: judge of Court of Appeals may grant temporary injunction dissolved by circuit judge. '08 ch.32, Feb.8

750 ADMINISTRATIVE LAW

This and constitutional law, 15, make up what is commonly known as the Political Code

770 Finance. Public property

*See also* 2237, School finance; 2550, Local finance

772 Domain. Property

- a **La.** Establishing Comn. on Conservation of Natural Resources to consist of professor of horticulture of State University, chief engineer of State Bd. of Engineers and 5 appointees of Gov.; comn. to expire at end of legis. sess. 1910; to investigate conservation of specified resources; report to Gen. Assembly 1910; to confer with comns. of other states and U. S.; \$2500. 5§ '08 ch.144, July 2

774 Public lands

*See also* 2240, School lands

- a **La.** Memorializing Cong. to give land in state owned by U. S. to state for school purposes. '08 ch.272, July 9
- b **Md.** Amdg. C.'04 art.54 §2 rel. to salaries of clerks in Land Office. '08 ch.81 (p.168), Mar.18



## PUBLIC PROPERTY

### 776 Sale. Settlement. Appraisal

- a La. Regulating sale of public lands; present applications annulled. 7§ '08 ch.215, July 8
- b O. Requesting Gov. of Ct. to turn over to Western Reserve Historical Society certain papers of Ct. Land Co. pertaining to occupancy of reserve by such company. '08 p.628, Mar.5
- c Okl. Appraisement of land granted to state for educational and public building purposes. 3§ '08 ch.49 art.2, Apr.8

### 777(5) Mineral

- a Okl. Rel. to state mineral lands: not to be sold before 1915; prospecting permitted; claims; location; leasing; graduated royalties. 20§ '08 ch.49 art.3, May 26
- b Okl. Authorizing lease of oil and gas interests in public lands: bids; pipe line company may not lease; reservations to state; distribution of income. 9§ '08 ch.49 art.4, May 26

### 778 Tide, shore and swamp lands

- a La. Authorizing Gov. to bring suit to recover public swamp lands illegally sold as tidal overflow lands. 5§ '08 ch.216, July 8

### 779 Buildings. Property and supplies

#### 780 Buildings and grounds

#### 781 Capitol

- a N. J. Amdg. '94 ch.339 §1: salary of custodian of Capitol \$3500 [\$2000]. '08 ch.38, Mar.30
- b Okl. Fixing positions and compensation of janitors, watchmen etc. of State House. 3§ '08 ch.36 art.1, May 26

#### 782 Executive mansion

- a La. State Horticulturist to beautify and keep in condition grounds of Gov.'s mansion. '08 ch.140, July 2
- b Md. Annual appropriation of \$5000 for maintenance of executive mansion. '08 ch.12 (p.148), Feb.20

#### 783 State architect

- a N. Y. Amdg. public buildings law '93 ch.227 §6, 7 rel. to State Architect: not required to give bond; may appoint deputy at \$5000. '08 ch.8, Feb.20

### 784 Property and supplies generally

#### 787 Contracts and supplies

- a N. J. Amdg. '07 ch.277 §1: contract for state work or supplies exceeding \$1000 [\$500] to be let to lowest responsible bidder, *unless otherwise ordered in writing by State House Comm.* '08 ch.23, Mar.25

### 789 OFFICERS: INTEREST IN CONTRACTS

- a Md. Msdr. for person having official connection with state institution to become interested in contract for such institution. Adds C.'04 art.27 §429a. '08 ch.517 (p.90), Apr.6

790

*State institutions*

- a **Mass.** Amdg. '07 ch.466 §1 rel. to advances to disbursing officers of state institutions: bond not required. '08 ch.178, Mar.6
- b **N. Y.** Amdg. state charities law '96 ch.546 §48: purchasing committee for charitable institutions allowed stenographer. '08 ch.360, May 19
- c **O.** Amdg. R.S. §623 rel. to appropriation of land by trustees of state institutions. '08 p.122, Apr.15
- d **O.** Amdg. R.S. §643, 649 rel. to purchase of supplies for state institutions: bids; approval. '08 p.382, May 9

791

*Insurance*

- a **N. J.** Fire insurance moneys paid on account of loss to state building or institution to be retained by bd. in charge and used toward reparation; plans to be prepared under direction of Comr. of Charities and Corrections. 3§ '08 ch.226, Apr.13
- b **Okl.** Joint legis. committee of 6 to investigate rate of insurance on and protection from fire of state educational institutions. '08 p.786, Jan.29

793

**Public works**

798

**State parks**

*See also* 1894, Forest preserve; 2369, Scenic and historic places

- a **N. Y.** Creating Fire Island State Park on Long Island; Gov. and Senate to appoint 5 comrs., terms 5 years, to control and manage; \$5000. Rep. '93 ch.111 §5. 11§ '08 ch.474, May 22
- b **O.** Amdg. '02 p.277 §8 rel. to licensing of boats on lakes in state parks. '08 p.347, May 9

800

**Taxation (general)**

Relating chiefly to general property taxes. Under local finance are placed only those tax laws which strictly belong there, as limitations of rates, special assessments, etc. State and local taxes are usually collected together by local authorities; hence a separation would be confusing. *See also* 2713, Road taxes

- a **Md.** Amdg. C.'04 art.81 §22 rel. to rate and items of state tax. '08 ch.223 (p.236), Apr.8
- b **Mass.** Tax Comr. to give advice to local assessors on law; may act through deputy or 1st assistant. Amds. R.L. ch.14 §5. '08 ch.433, Apr.22
- c **Minn.** Amdg. Const. 1857 as substitute for art.9 §1-4: power of taxation indestructible; taxes to be uniform and for public purpose; exemptions; special assmts. Adopted Nov. 1906. '05 ch.168, Apr.13; '07 ch.477, Apr.20

This amdt. was voted upon in 1906 and reported by the canvassers at that time as adopted. The Supreme Court of Minn. on Jan. 7, 1909, decided that the amdt. had been adopted. Pending this decision the amdt. had been resubmitted in 1908, and the vote at that time was for rejection. Presumably this latter vote was of no effect, and the amdt. stands as adopted in 1906.

800

- d **Miss.** Joint legis. committee of 10 to report bill at session of 1910 to remedy inequalities of assmt. and taxation. '08 ch.291, Mar.21
- e **Mon.** Submitting amdt. to Const. 1889 art.12 §9 rel. to rate of tax levy. 3\$. Rejected Nov. 1908. '07 ch.154, Mar.7
- f **O.** Submitting amdt. to Const. 1851 art.12 §2: Legis. may classify subjects of taxation. Rejected Nov. 1908. '08 p.629, Mar.27
- g **S. D.** Submitting amdt. to Const. 1889 art.11: annual levy; graduated inheritance and income taxes. Rejected Nov. 1908. '07 ch.96
- h **U.** Submitting amdt. to Const. 1895 art.13 §7: tax rate not to exceed 8 mills, *4 1/2 for gen. purposes, 3 for district schools, 1/2 for high schools.* 3\$. Rejected Nov. 1908. '07 p.272
- i **Wash.** Submitting amdt. to Const. 1889 art.7 §1-4 rel. to taxation, by substituting 1\$. 3\$. Rejected Nov. 1908. '07 ch.67, Mar.5

807

**Separation of state and local taxation**

- a **Cal.** Submitting amdt. to Const. 1879 art.13 §1, 9-11: separation of state and local taxation. Adds §14, 15; rep. art.11 §10. 7\$. Rejected Nov. 1908. '07 p.1353, Mar.9
- b **Mo.** Submitting amdt. to Const. 1875 adding 7\$ to art.10 rel. to separation of state and local revenues. 7\$. Rejected Nov. 1908. '07 p.460

810

**Exemptions from general property tax**

*See also* under special classes of taxes; *also* 1633, Encouragement of industries

- a **Col.** Declaring unconst. '02 ch.3 in so far as it attempts to tax interest in land sold by state while title remains in state. Impairs obligation of contract.  
Colorado Farm & Live Stock Co. v. Beerbohm 96 P. 443 (1908)  
Gale v. Beerbohm 96 P. 449 (1908)
- b **Ill.** Declaring unconst. '05 p.353 §1 ¶4 exempting capital stock of certain corporations from taxation. Exempts property not enumerated in Const.  
Consolidated Coal Co. of St Louis v. Miller 86 N. E. 205 (1908)
- c **La.** Amdg. Const. 1898: mortgages on real estate in state and loans to policyholders by insurance companies exempt from taxation. Adopted Nov. 1908. '08 ch.62, June 24
- d **Md.** Amdg. C. '04 art.81 §160 rel. to credits allowed on taxes of corp. owning state stock or stock on which taxes have been paid. '08 ch.124 (p.239), Mar.25
- e **Mass.** Exempting from taxation future issues of munic. and county bonds and certificates of indebtedness. '08 ch.464, Apr.28
- f **Mass.** Amdg. '08 ch.464 §1: fire and water supply district bonds exempt from taxation. '08 ch.594, June 8
- g **Miss.** Exempting drainage district bonds from taxation. '08 ch.141, Feb.20
- h **Miss.** Amdg. C. '06 §4251: rock and stone plants exempt from taxation. '08 ch.197, Mar.14
- i **N. Y.** Amdg. tax law '96 ch.908 §15 rel. to reports by clerks of bds. of supervisors of exempt property. '08 ch.43, Mar.19



810

- j N. Y. Amdg. tax law '96 ch.908 §187c rel. to credit to be given to corp. owning state bonds on account of tax. '08 ch.228, May 6
- k N. Y. Amdg. gen. munic. law '92 ch.685 §7 rel. to exemption from taxation of bonds of munic. corp. '08 ch.256, May 11
- n O. Amdg. R.S. §2732: stocks in corp. owned by county, township or municipality, paid for by taxation, exempt from taxation. '08 p.449, May 9
- p Okl. Authorizing municipality to exempt from munic. taxation for 5 years factory or public utility hereafter established. '08 ch.10 art.3, Apr.4
- q Or. Amdg. Const. 1857 art.9 §1: dwelling houses, outhouses, machinery, buildings used for manufacturing, fences, farm machinery, fruit trees, vines, improvements on farms, live stock, household furniture and workmen's tools exempted from taxation. Proposed by initiative petition and rejected June 1, 1908.
- r S. C. Exempting school district bonds from taxation. '08 ch.473, Feb.14
- s Wash. Declaring unconst. '07 ch.48 §1 as far as it exempts money from taxation. Avoids taxation of all property. State ex rel. Wolfe v. Parmenter 96 P. 1047 (1908)

812 Charitable, educational and religious institutions and societies

- a N. C. Amdg. '07 ch.258 §63 subd.5 exempting from taxation real estate *and income thereof* of religious associations and charitable institutions. '08 ch.43, Jan.30

816

Veterans and veterans organizations

- a R. I. Amdg. G.L. ch.47 §4: Union veteran exempt from poll tax. '08 ch.1543, Apr.24
- b R. I. Exempting from taxation to amount of \$1000 property of Union veteran, widow or wife, if not worth \$5000. Adds G.L. ch.844 §6, 7. '08 ch.1566, May 6

819

Assessment

- a Id. Amdg. Const. 1889 art.18 §6: county coinrs. may authorize deputy assessors and tax collectors. 3§. Adopted Nov. 1908. '07 p.585, Mar.6
- b Kan. Amdg. '07 ch.408 §19 rel. to deputy assessors. '08(ex.sess.) ch.76, Feb.1
- c Kan. Amdg. '07 ch.408 §25 rel. to oath of deputy assessors. '08(ex.sess.) ch.77, Feb.1
- d Kan. Unlawful for officer to make assmt. yielding 2% in excess of maximum provided by law; exceptions; penalty. 4§ '08(ex.sess.) ch.78, Feb.1
- e Ky. Authorizing county judge to order reassessment where assessors' list and tax books destroyed. '08 ch.10, Mar.17
- f La. Fixing compensation of assessors. '07 ch.22, Dec.3
- g La. Providing for special agent in office of Auditor to examine books of tax collectors and assessors. 7§ '07 ch.24, Dec.4
- h La. Amdg. '98 ch.170 §12: property omitted from assmt. rolls for levee taxes may be placed on same for 3 years back. '08 ch.69, June 30

819

- i La. Assessor not to file assmt. rolls till collector exhibit quietus for taxes of preceding year. 3§ '08 ch.115, July 1
- j La. Fixing compensation of tax assessors. Amds. '07 ch.22. '08 ch.213, July 8
- k Mass. Furnishing of books to and receiving reports of assessors and compiling returns to be done by Tax Comr. instead of Sec. of Commonwealth. '08 ch.314, Mar.28
- n Mass. Amdg. R.L. ch.12 §57, 58 rel. to form of assessors' valuation lists. '08 ch.387, Apr.11
- p Mass. Authorizing Tax Comr., with consent of Gov. and Council, to appoint 3 supervisors of assessors to aid local bds. of assessors in ascertaining valuations. 5§ '08 ch.550, May 27
- q N. J. Assessor in township of 2000 to receive salary of at least \$300. '08 ch.62, Apr.2
- r N. J. Authorizing governing body of town to appoint 3 assessors; to supersede present officials; compensation; terms. 6§ '08 ch.153, Apr.10
- s N. Y. Amdg. tax law '96 ch.908 §21: assmt. rolls of district assessors to contain column for value of village property. '08 ch.437, May 20
- t O. Amdg. R.S. §1535: assessor of personal property to receive \$3 [2] per day. '08 p.26, Feb.28
- u O. Amdg. R.S. §1036: fraction over 5 mills in amount of tax levied to count as another cent; under 5 mills to be dropped. '08 p.334, May 9
- v Okl. County comrs. may contract for discovery of property not listed and assessed. 3§ '08 ch.81 art.9, May 29
- w Va. Amdg. C. §833: duties of bd. of supervisors rel. to county and school levies. Adds §833a. '08 ch.177, Mar.11
- x Va. Amdg. C. §526 rel. to fees of comrs. of revenue. '08 ch.365, Mar.14
- y W. Va. Method of making levies by County Court or school bd.; election for additional levy; penalties for illegal expenditure of public moneys, incurring illegal obligations and laying illegal levy. 10§ '08 ch.9, Feb.26

820

## Real estate

- a Mass. Amdg. '07 ch.378 §1: collector of city or town of over 5000 to furnish on application list of munic. liens on real estate. '08 ch.299, Mar.27
- b Miss. Amdg. C.'06 §377 rel. to separate assmt. of overflowed land in swamp land district: gen. laws to apply; assessor's fee. '08 ch.151, Mar.21
- c O. Amdg. R.S. §2733 rel. to taxation of lands of state, municipality or benevolent, religious or educational association leased for 15 [14] years. '08 p.349, May 9
- d Okl. Providing for graduated tax, in addition regular tax, on land and leaseholds of land in excess of 640 acres. 5§ '08 ch.81 art.7, May 26
- e Okl. Rel. to transmission by Auditor to county clerks of lists of taxable land. Amds. S.'03 §6547, 6550. 3§ '08 ch.5 art.11, May 29

820

- f **Va.** Apportionment of city taxes on real estate on ownership being divided among several persons. '08 ch.38, Feb.15
- g **Va.** Amdg. C. §437a rel. to assmt. of standing timber. '08 ch.220, Mar.12
- h **Va.** Amdg. C. §444: owner of land may apply to have assmt. increased. '08 ch.237, Mar.12

823

### Personal property

- a **Ky.** Amdg. '06 ch.22 art.1 §2, 5: situs of personal property for purpose of taxation at residence of real or beneficial owner, not of fiduciary or agent in possession. '08 ch.47, Mar.23
- b **N. Y.** Amdg. tax law '96 ch.908 §58 rel. to annual return to Comptroller by clerk of bd. of supervisors: classification of personal property assessed. '08 ch.307, May 18

825

### Review. Equalization. Adjustment

For equalization by state boards *see* 800, Taxation (general)

- a **Kan.** Amdg. '07 ch.408 §17: taxing district required to use valuations fixed by State Bd. of Equalization. Rep. G. S. '01 §7611, 7702. '08 (ex.sess.) ch.79, Jan.27
- b **Wy.** Submitting amdt. to Const. 1889 art.15 §9: State Bd. of Equalization to consist of *chairmen of boards of county comrs.* [State Auditor, Treasurer and Sec. of State]. Rejected Nov. 1908. '07 p.194, Feb.16

827

### Collection

- a **Id.** Amdg. Const. 1889 art.18 §6: county comrs. may authorize deputy assessors and tax collectors. 3§. Adopted Nov. 1908. '07 p.585, Mar.6
- b **La.** Fixing commissions for collection of taxes. 3§ '07 ch.11, Nov.27
- c **La.** Authorizing Gov. to increase bond of tax collector on recommendation of Auditor. 4§ '07 ch.26, Dec.3
- d **La.** Providing for special agent in office of Auditor to examine books of tax collectors and assessors. 7§ '07 ch.24, Dec.4
- e **La.** Amdg. Const. 1898 by adding article: 1 tax collector for city of New Orleans; salary \$5000; clerical expenses not to exceed \$35,000 annually. 3§. Adopted Apr. 1908. '07 ch.25, Dec.4
- f **La.** Fixing compensation of collectors of taxes. 3§ '08 ch.181, July 3
- g **Mass.** Collector of taxes may issue warrant of arrest for non-payment of taxes; commitment to jail; fees. '08 ch.99, Feb.17
- h **Mass.** Amdg. R.L. ch.13 §80: deputy collector of taxes may be woman. '08 ch.247, Mar.19
- i **Miss.** Amdg. '04 ch.90 §3: Miss. Levee Bd. to require surety company *or other* bonds of tax collectors. '08 ch.211, Feb.4
- j **Miss.** Amdg. C.'06 §1704: county *tax collector* [treasurer] to collect money levied in drainage district. '08 ch.173, Mar.21
- k **N. J.** Collector in county of 3d class to receive at least \$750 per year. '08 ch.117, Apr.8



827

- n N. J. Cities of 2d class may regulate salaries of collectors and treasurers. '08 ch.205, Apr.13
- p N. Y. Amdg. tax law '96 ch.908 §56 rel. to time of issuing tax collector's warrant. '08 ch.308, May 18
- q N. Y. Cancellation of personal tax where noncollectable for want of jurisdiction. Adds §259b to tax law '96 ch.908. '08 ch.505, May 23
- r Va. Msdr. for tax collector to fail to give receipt showing amount paid and date. '08 ch.25, Feb.8
- s W. Va. Amdg. C. §828: discount for prompt payment of taxes to be deducted from sheriff's commission for collection. '08 ch.10, Mar.6

829 **Delinquent taxes. Tax sales. Redemption**

- a Ga. Collection of past due taxes. 7§ '08 p.25, Aug.15
- b Ky. Amdg. '06 ch.22 art.8 §20: taxes delinquent if unpaid *Dec. 1* [Nov. 1]. '08 ch.35, Mar.19
- c Ky. Amdg. '06 ch.22 art.8 §25, 26, 28-30, 40 rel. to collection of delinquent taxes. Rep. §21-25. 7§ '08 ch.43, Mar.24
- d Mass. Rel. to redemption of land sold for taxes: where action in equity for recovery brought, plaintiff entitled to counsel fee if sufficient tender be made before trial; interest. '08 ch.226, Mar.18
- e Miss. Amdg. C.'06 §4328: lands to be sold for delinquent taxes 1st Monday of *Apr.* [Mar.]. '08 ch.199, Feb.1
- f Miss. Amdg. C.'06 §4317: cost of publication of delinquent lists for poll taxes by county not to exceed \$75 [\$25] per year. '08 ch.198, Mar.18
- g Miss. Amdg. C.'06 §4331 rel. to conveyance of land to state for taxes. '08 ch.200, Mar.18
- h N. J. Where records destroyed, tax deed issued by city officer conclusive evidence of conveyance. '08 ch.10, Mar.10
- i N. J. Amdg. '03 ch.208 §57; 58 rel. to redemption of land sold for taxes: purchaser allowed searching fees. '08 ch.247, Apr.14
- j O. Amdg. R.S. §1094: county comrs. authorized to extend time of payment of taxes. '08 p.435, May 9
- k S. C. Amdg. C.C. §1984 rel. to delinquent munic. taxes: penalty for nonpayment; sales. '08 ch.468, Feb.21
- n Va. State or locality may not assert tax lien after failure to do so in chancery suit where made party. '08 ch.117, Feb.29
- p Va. Amdg. C. §647 rel. to report of treasurer of city or county rel. to sale of lands for taxes. '08 ch.298, Mar.13
- q Va. Rep. '04 ch.118 rel. to payment of interest on unpaid taxes. '08 ch.384, Mar.14

830

**Income tax**

- a Okl. Graduated tax on incomes over \$3500. 9§ '08 ch.81 art.10, May 26
- b Va. Amdg. '03 ch.148 §10: incomes in excess of \$1000 [\$600] taxed. '08 ch.10, Jan.31
- c Wis. Amdg. Const. 1848 art.8 §1: Legis. may provide for graduated income tax. Adopted Nov. 1908. '05 p.992; '07 ch.661, July 16

831

## Poll taxes

*See also* 132, Suffrage; 816, Exemption from taxation; 2714, Roads

- a **Va.** Amdg. C. §86c rel. to lists of voters having paid capitation tax in local option election. '08 ch.129, Mar.3

## 833 Business taxes. Revenue, license or privilege taxes

*See also* 842, Incorporation taxes; 907, Liquor licenses; 1532, Regulation and licensing of trades and occupations

- a **Ga.** License tax on sale of substitutes for intoxicants; for support of penitentiary system. 8§ '08 p.1112, Sept.5
- b **La.** License tax on wholesale and retail dealers in pistols, rifles and cartridges. 3§ '08 ch.206, July 8
- c **La.** Amdg. '98 ch.171 §5: license tax for money lenders. '08 ch.209, July 8
- d **La.** Amdg. '98 ch.127 §7: license for sale of mineral oil \$7 [\$5] on \$1000 sale. '08 ch.276, July 9
- e **La.** Amdg. '98 ch.171 §12: theaters and moving picture shows put in 8 [4] classes for licensing; definition of peddler changed. '08 ch.295, July 9
- f **Miss.** Ad valorem tax on stocks of goods where business commenced after Feb. 1; apportionment; sheriff to assess goods escaping assessors. '08 ch.75, Feb.19
- g **Miss.** Generally amdg. C.'06 ch.114 rel. to privilege taxes. Rep. §3836, 3869. 20§ '08 ch.73, Mar.20
- h **Miss.** Creating privilege taxes on certain industries and occupations. 8§ '08 ch.74, Mar.20
- i **Okl.** Authorizing towns and villages to levy license tax on certain occupations and privileges; initiative and referendum extended to such towns and villages. '08 ch.81 art.8, May 26
- j **Tex.** Declaring unconst. '05 ch.111 imposing occupation tax on purchasers of assignments of unearned wages. Nonuniform tax; restrains freedom of trade. *Owens v. State* 112 S. W. 1075 (1908)
- k **Va.** Amdg. '03 ch.148 §51 rel. to license tax on peddlers: of pianos and organs \$10; of meat, in country, and of milk, butter, eggs, poultry, fish or oysters exempt. '08 ch.99, Feb.29
- n **Va.** Specific license for permanent parks for public amusement open 3 months in year. '08 ch.224, Mar.12
- p **Va.** License tax on exhibition of moving pictures and phonographs. '08 ch.267, Mar.13

835

## Tax on deeds and contracts. Fees

- a **Cal.** Submitting amdt. to Const. 1879 to repeal art.13 §4 rel. to taxation of obligations by which debt is secured. Rejected Nov. 1908. '07 p.1159, Feb.19
- b **La.** Mortgages taxable only at domicile of owner. '08 ch.170, July 3
- c **N. Y.** Amdg. tax law '96 ch.908 §298 rel. to recording tax on mortgages: report of recording officer to contain amount deducted for expenses; share of locality payable city *treasurer* or town [collector] *supervisor*. '08 ch.296, May 18



836

**Inheritance taxes**

- a **Md.** Amdg. C. '04 art.81 §117, 140 rel. to collateral inheritance tax; rate 5% [2½%]; fees of local officers for collection.  
'08 ch.695 (p.238), Apr.8
- b **Mass.** Amdg. '07 ch.563 §14: Tax Comr. may excuse register from filing inventory and will when no part of estate appears subject to tax.  
'08 ch.268, Mar.25
- c **N. J.** Amdg. '94 ch.210 §15 rel. to jurisdiction of Orphans Court as to inheritance tax.  
'08 ch.131, Apr.9
- d **N. Y.** Amdg. tax law '96 ch.908 §220, 221, 227, 229, 232, 235, 237 rel. to transfer tax: bequests not specific; stepchild excepted only where relation of parent and child mutually acknowledged; liability of certain corporations; appeal; proceedings by district attys.; fees of county treasurer. 7§  
'08 ch.310, May 18
- e **Okl.** Graduated inheritance tax. 23§  
'08 ch.81 art.11, May 26

841

**Corporation taxes**

Including taxation by general property tax

- a **Kan.** Amdg. G.S. '01 §7515 rel. to assmt. of capital stock of corp.: no deduction for mortgages on property without state; property listed for taxation within or without state to be deducted.  
'08 (ex.sess.) ch.80, Jan.31
- b **Md.** Rel. to taxation of corporations: term gross receipts defined. Adds C. '04 art.81 §166a.  
'08 ch.552 (p.241), Apr.6
- c **Mass.** Amdg. '07 ch.329 §1 rel. to local taxation of real estate and machinery of water companies: provisions requiring Tax. Comr. of Commonwealth to make valuations repealed.  
'08 ch.193, Mar.10
- d **Mass.** Providing for abatement of unpaid and uncollectable taxes on domestic corporations.  
'08 ch.220, Mar.14
- e **Mass.** Amdg. R.L. ch.14 §55 rel. to penalty for failure of certain kinds of corporations to make returns to Tax Comr.  
'08 ch.318, Mar.28
- f **Mass.** Rep. R.L. ch.14 §6, 7 which required domestic corp. to make return to Tax Comr. of certain bonds and stocks held as collateral security.  
'08 ch.468, Apr.29
- g **Mass.** Amdg. '03 ch.437 §86 rel. to distribution of franchise tax of business corp.: ½ to communities where stockholders reside, ½ to place where business carried on.  
'08 ch.614, June 11
- h **Va.** Amdg. '03 ch.148 §41: corp. failing to pay annual registration to be fined double amount of assmt.  
'08 ch.227, Mar.12
- i **Va.** Amdg. '03 ch.148 §43 rel. to taxation of corporations organized under gen. law: Corp. Comm. to ascertain maximum capital stock Jan. 1; corp. to pay 6% interest on delinquent tax.  
'08 ch.334, Mar.14
- j **Va.** Amdg. C. §1105a subd.3, 15, §1105d subd.3, 8 rel. to payment of fees and taxes by corp. on organization or dissolution. 4§  
'08 ch.335, Mar.14



**842 Incorporation and license fees and taxes**

*See also 500, Corporations*

- a **Mass.** Amdg. R.L. ch.110 §86 rel. to incorp. fee for certain corporations. '08 ch.219, Mar.14
- b **Mass.** Amdg. R.L. ch.110 §86 rel. to incorp. fee for certain corporations: maximum fee of \$200 removed. Rep. '08 ch.219. '08 ch.382, Apr.10

**843 Banking institutions**

*See also 1679, Banking*

- a **Va.** Amdg. '03 ch.148 §8, 17, 18 rel. to taxation of banks and bank shares. 3§ '08 ch.213, Mar.12

**844 Insurance companies**

*See also 1732, Insurance*

- a **N. J.** Taxation of insurance companies other than fire or life. '08 ch.321, Apr.16
- b **R. I.** Amdg. G.L. ch.29 §6 rel. to taxation of foreign insurance companies: agent's report. '08 ch.1589, May 26

**845 Transportation and transmission corporations**

*See also 1200, Transportation*

- a **Ga.** Tax returns of railroads for county, munic. and school purposes subject to same inspection and objection as those for state purposes. '08 p.24, Aug.14
- b **Kan.** Amdg. G.S.'01 §7532-33, 7539 rel. to taxation of telephone, telegraph and pipe line companies. 4§ '08 (ex.sess.) ch.81, Jan.27
- c **Mass.** Rel. to taxation of express companies: return to tax comr.; books open to inspection. Amds. '07 ch.586 §1 ¶3. 3§ '08 ch.194, Mar.10
- d **Mass.** Taxation of express companies. Adds '07 ch.586 §8. '08 ch.615, June 11
- e **Mich.** Amdg. Const. 1850 art. 14 §10: taxation of property of transportation corporations. Adopted Nov. 1908. '07 p.524
- f **Miss.** Local assessors to submit to Railroad Comn. detailed statement of value of property of public service corporations; comn. to ascertain correctness and levy assmt. 3§ '08 ch.94, Mar.20
- g **N. Y.** Amdg. tax law '96 ch.908 §2 subd.4: special franchise not to include railroad crossing less than 250 feet in width *unless continuation of occupancy of another street, highway or public place.* '08 ch.295, May 18
- h **Okl.** Taxing gross receipts of public service corporations and mines. 9§ '08 ch.71 art.2, May 26
- i **Tex.** Declaring unconst. '05 ch.141 taxing gross receipts of railroads as far as applying to those having receipts from interstate commerce. *Galveston, Harrisburg etc. Ry. Co. v. Texas* 210 U. S. 217 (1908)
- j **Va.** Amdg. '03 ch.148 §29, 30 rel. to assmt. of property of transportation companies: mileage; ½ of 1% on gross receipts. '08 ch.165, Mar.11

## ACCOUNTS

845

- k **Va.** Amdg. '03 ch.148 §31: tax on express company \$3 *for each mile operated in state* [graduated according to mileage]. '08 ch.179, Mar.11
- n **Va.** Amdg. '03 ch.148 §32, 33 rel. to assmt. of sleeping, parlor and dining car companies. '08 ch.219, Mar.12
- p **Va.** Amdg. '03 ch.148 §34: telegraph or telephone corp. failing to report assets and earnings to *Corp. Comm.* [Auditor of Public Accounts] to be fined [not less than \$500 or] not over \$2000. '08 ch.333, Mar.14

846

### Mining

- a **Okl.** Taxing gross receipts of public service corporations and mines. 9§ '08 ch.71 art.2, May 26
- b **U.** Amdg. Const. 1895 art.13 §4: mines and mining property to be taxed by *State Bd. of Equalization*. 3§. Adopted Nov. 1908. '07 p.274, Mar.23

849

### Budget

*See also 2575, Local finance*

852

### Governors contingent fund

- a **Mass.** Amdg. R.L. ch.4 §9: \$100,000 [\$20,000] allowed Gov. and Council annually for extraordinary expenditures *and deficiencies in appropriations*. '08 ch.549, May 27

853

### Accounts. Methods generally. Collection of moneys. Warrants

*See also 2575, Local finance*

- a **La.** State officials and institutions not to exceed appropriations nor divert money to purposes other than for which appropriated; chairmen of finance and appropriation committees of Legis. to investigate before next session. '08 ch.303, July 9
- b **N. J.** Establishing Dept. of Accounts: in charge of Auditor of Accounts, appointed by Gov. and Senate; term 5 years; salary \$3000; to establish uniform bookkeeping in state depts. and institutions; audit of accounts of state and county officials; Gov. may remove. Rep. '04 ch.198. 4§ '08 ch.305, Apr.16
- c **W. Va.** State Tax Comr. to be Chief Inspector and Supervisor of Public Offices; supervision of finances of public institutions and offices; uniform system of public accounting, auditing and reporting. 9§ '08 ch.33, Mar.3

855

### Claims against state

- a **Mass.** Amdg. R.L. ch.201 §2 rel. to prosecution in Superior Court of claims against commonwealth: to be heard by 3 judges if over \$10,000 [\$2000]. '08 ch.288, Mar.25
- b **N. Y.** Amdg. C.C.P. §264 rel. to jurisdiction of Court of Claims: action by executor for death of decedent because of wrongful act of state and action on contract; claims accrued within 3 years before passage may be heard. '08 ch.519, June 16

856 Examination and audit

- a Ala. Directing Gov. to instruct State Examiner to examine state depts. annually; reports to be published. '07 (ex.sess.) p.17, Nov.23
- b Okl. State Examiner to examine accounts of state and county treasurers and state institutions; to establish uniform system of book-keeping; assistants. 7§ '08 ch.79 art.1, Apr.9

857 Financial officers

*See also 2588, Local finance*

- a La. Joint legis. committee of 5 to investigate accounts of State Auditor and State Treasurer. '08 ch.7, May 29

858 State auditor. Comptroller

- a La. Providing for special agent in office of Auditor to examine books of tax collectors and assessors. 7§ '07 ch.24, Dec.4
- b Mass. Auditor of Accounts to be known as Auditor of Commonwealth; to appoint deputy; supervisor of accounts to supervise accounts of all state depts.; annual estimates. 6§ '08 ch.597, June 8
- c Mass. Amdg. R.L. ch.6 §22: Auditor of Accounts to submit abstract of report to Gen. Court 2d [1st] Wednesday in Jan. '08 ch.630, June 12
- d Mass. State officials whose accounts Auditor of Accounts is required to audit not to include those whose accounts comptroller of county accounts is required to examine. '08 ch.638, June 13
- e R. I. Additional annual allowance of \$600 for clerical help in office of State Auditor. '08 ch.1558, May 1
- f R. I. Salary of State Auditor \$2500; of Insurance Comr. \$1500, both inclusive of fees. 3§ '08 ch.1571, May 13

859 State treasurer

- a Kan. Amdg. G.S.'01 §6080: salary of State Treasurer \$3600 [\$2500], of assistant \$1800 [\$1700]. '08 (ex.sess.) ch.56, Feb.1
- b Miss. Amdg. C.'06 §3462: bond of State Treasurer \$100,000 [\$250,000]; bonds of officials may be made in whole or in part by surety company. '08 ch.191, Jan.17
- c R. I. Salary of Treasurer of State \$4000. '08 ch.1527, Apr.9
- d R. I. Amdg. '98 ch.600: Gen. Treasurer to have \$2500 [\$1500] for additional clerical help. '08 ch.1584, May 26

861 Funds. Investments

- a Mass. Bank Comr. to make annual examination of securities and cash held by Treasurer and Receiver Gen. '08 ch.414, Apr.17

863 State institutions

- a Mass. Requiring treasurers and disbursing officers of state institutions to have office to keep books and vouchers; books to be books of institutions. '08 ch.195, Mar.10
- b N. J. Money paid into State Treasury by state institution to be used for such institution. '08 ch.41, Mar.31



## DEPOSITS AND DEPOSITORIES

863

- c Va. Requiring eleemosynary institutions, colleges and prisons to report to Auditor of Accounts monthly as to disbursing of funds received from state. '08 ch.260, Mar.13

864

### Warrants. Checks

- a Va. Amdg. C. §773a rel. to issuing of duplicate of lost warrant by Auditor of Public Accounts: cases where indemnifying bond need not be given. '08 ch.77, Feb.25

865

### Debts. Bonds

*See also 2597, Local finance*

- a Cal. Amdg. Const. 1879 art.16 §1: loans not to run over 75 [20] years; *sinking funds may be provided for*. Adopted Nov. 1908. '07 p.1366, Mar.14
- b Col. Submitting amdt. to Const. 1876 art.11 §3: bonds may be issued beyond legal limit of indebtedness to fund Auditor of State's warrants for 1887-89, 1892-94, 1897. 11§. Rejected Nov. 1908. '07 ch.134, Apr.9
- c Kan. State Treasurer fiscal agent of state; state, munic. and school bonds payable at Topeka; duties and commission of State Treasurer; agency in city of New York. Amds. G.S. '01 §3155. 6§ '08 (ex.sess.) ch.58, Feb.1
- d La. Prohibiting Gov. from borrowing money without consent of State Bd. of Liquidation. '08 ch.77, June 30
- e N. Y. Referring to next Legis. amdt. to Const. 1894 art.7 §4: Legis. may alter interest on state debt except as to part not issued; where increased difference to be provided for by direct tax. '08 p.1918, Apr.8
- f Okl. Funding state and territorial indebtedness. 11§ '08 ch.7 art.1, Mar.6
- g Va. Amdg. C. §419-21 rel. to purchase of outstanding state bonds for sinking fund; comrs. to meet *monthly* [yearly]; purchase may be public or private. 3§ '08 ch.183, Mar.11

868

### Deposits and depositories

*See also 2600, Local finance*

- a Ala. Amdg. C. '96 §4668 rel. to embezzlement by public officers: may deposit money in bank in good faith and with security. '07 (ex.sess.) p.162, Nov.23
- b Ill. State Treasurer to deposit moneys within 5 days of receipt in banks paying highest rate of interest; \$5000 appropriated to pay premiums on bonds of State Treasurer and his employees. 3§ '08 p.32, Mar.7
- c Ky. Conditions of official bonds and those given by depositories and fiduciaries. '08 ch.49, Mar.17
- d La. Requiring deposit of state and local public funds in authorized depositories; interest; security. 9§ '07 ch.23, Dec.3
- e La. Method of selecting state depositories; interest at not less than 3%; security. '08 ch.183, July 3

868

- f **La.** Amdg. '07 (ex. sess.) ch.23 §1: deposits of state and local funds in depositories to be made *weekly* [daily]. '08 ch.282, July 9
- g **Miss.** Providing for state depositories: security; interest; felony for state officer to remove funds unlawfully. 14§ '08 ch.96, Mar.19
- h **Mon.** Amdg. Const. 1889 art.12 §14: Gov., State Auditor and State Treasurer to constitute State Depository Bd. 3§. Adopted Nov. 1908. '07 ch.123, Mar.6

870

## Public order

*See also* 234, Crimes and offenses; 1332, Railroads

872

## Police

*See also* 206, Detectives; 1334, Railroads; 1817, Navigation

- a **Mass.** Allowing police of metropolitan park system and of cities and towns except Boston 1 day off duty in 30 in addition to regular annual vacation; referendum. 3§ '08 ch.476, May 1

873

## Peace officers

*See also* 663, Constable; 691, Sheriff

- a **S. C.** Authorizing sheriff on request to appoint deputy for park or place of amusement; to be paid by latter. '08 ch.497, Feb.14

874

## State and county police

- a **Ga.** Amdg. Const. 1877 art.7 §6: county may levy tax for county police and necessary sanitation. Adopted Nov. 1908. '08 p.33, Aug.17
- b **Mass.** Authorizing members of district police to carry badges and weapons. '08 ch.143, Feb.27
- c **Mass.** Additional member of detective dept. of district police. '08 ch.185, Mar.7
- d **Mass.** Person over 50 not to be appointed inspector of factories and buildings or member of inspection dept. of Metropolitan Police. '08 ch.375, Apr.8
- e **Mass.** Authority of chief or deputy chief of inspection dept. of Metropolitan Police and inspectors of factories and public buildings to enter buildings; penalty for resisting; enforcement. 3§ '08 ch.389, Apr.11
- f **Nev.** Creating Nev. State Police to consist of supt., appointed by Gov. at his pleasure, 1 inspector, 4 sergeants, 25 police officers and 250 reserves; compensation; duties; discipline. 24§ '08 ch.4, Jan.29
- g **Nev.** Adjutant Gen. created Commissary of Nev. State Police; salary \$1200; to purchase provisions and equipment. 5§ '08 ch.20, Feb.8
- h **Va.** Amdg. C. §3922 which authorizes Circuit Court to appoint special police for county: number; duties. '08 ch.322, Mar.14

## POLICE REGULATIONS

### 875 Municipal police

- a N. J. Amdg. '06 ch.270 §13 rel. to estimates for fire and police depts. in city of under 35,000. '08 ch.80, Apr.2
- b N. J. Authorizing city to issue not to exceed \$50,000 of bonds for improvement of police dept. facilities and fire and police alarm system. '08 ch.125, Apr.8
- c N. Y. Amdg. '06 ch.473 §137: policeman or fireman dismissed from office in city of 2d class may apply for reinstatement within year; comr. of public safety may rehear and redetermine case. '08 ch.252, May 11

### 876 Pensions

- a N. J. Authorizing township to pension police; referendum. '08 ch.74, Apr.2
- b N. Y. Police pension fund for city of Lockport. '08 ch.225, May 6

### 877 Miscellaneous police regulations

*See also* 256, Crimes against public order and security; 264, Crimes against public morals and the family; 1065, Nuisances; 1090, Public safety; 2722, Roads

### 879 Amusements

Relating chiefly to restricted amusements

- a Or. Amdg. Const. 1857 art.11 §2: municipalities given exclusive right to regulate theaters, race tracks, pool rooms, bowling alleys, billiard halls and sale of liquors subject to local option laws. Proposed by initiative petition and rejected June 1, 1908.

### 881 Billiards. Bowls etc.

- a N. J. Msdr. to allow child under 16 in dance hall, concert saloon, place where theatrical or moving picture exhibition is given or billiard or pool room unaccompanied by parent; msdr. to furnish intoxicating liquor to child under 18 or allow it to frequent place where sold. 4§ '08 ch.185, Apr.13

### 883 Gambling. Lotteries. Betting

*See also* 1507, Speculation

- a La. Amdg. '98 ch.181 §1, 2: msdr. to gamble at craps *or with dice*; *occupant* [proprietor] of building guilty of msdr. '08 ch.70, June 30
- b La. Amdg. '98 ch.57 which prohibits gambling with slot machine *or similar mechanical device* for money *or other prize*: msdr. to have machine on premises. '08 ch.107, July 1

### 887 Poolselling. Bookmaking etc.

- a Ky. To suppress pool rooms. 6§ '08 ch.46, Mar.18
- b La. Msdr. to make book, sell pools or operate gambling device at race track. '08 ch.57, June 24
- c N. Y. Amdg. '95 ch.570 §16, 18: exclusive penalty of recovery of money lost betting at licensed race track removed and imprisonment for 1 year without alternative of fine substituted. Rep. §17. 3§ '08 ch.506, June 11



887

- d **N. Y.** Amdg. Pen. C. §351: poolselling and bookmaking *msdr.* [felony]; penalty *1 year* [2 years or \$2000]; exclusive penalties removed. '08 ch.507, June 11

893

### Shows. Theaters. Exhibitions

- a **La.** *Msdr.* for manager of theater etc. to permit persons to disturb audience by taking seats during performance. 3§ '08 ch.72, June 30
- b **Mass.** Amdg. R.L. ch.102 §170: minor not to be admitted to place where pictures displayed in slot machines without written consent of parent. '08 ch.368, Apr.8
- c **Mass.** Moving picture not to last over 20 minutes with 5 minute intervals. '08 ch.565, June 1
- d **Mass.** Inspection of cinematographs; licensing of operators; regulations; assistant operators. 6§ '08 ch.566, June 1
- e **N. J.** *Msdr.* to allow child under 16 in dance hall, concert saloon, place where theatrical or moving picture exhibition is given or billiard or pool room unaccompanied by parent; *msdr.* to furnish liquor to child under 18 or allow it to frequent place where sold. 4§ '08 ch.185, Apr.13
- f **S. D.** *Msdr.* to give theatrical or other performance for admission fee on Sunday. Adopted by referendum vote Nov. 1908. '07 ch.234, Feb.25

895

### Cruelty to children and animals

896

#### Cruelty to animals

- a **Mass.** Authorizing city or town to give disabled horses owned by it to society for care of dumb animals on condition they be not sold or hired. '08 ch.133, Feb.27
- b **N. J.** Society for prevention of cruelty to animals organized by county district society with approval of president of state society, to have same powers and privileges as county district society. '08 ch.118, Apr.8
- c **N. J.** Rep.'99 ch.76 §1 subd.58 which repealed provisions for incorp. of N. J. Society for Prevention of Cruelty to Animals. '08 ch.120, Apr.8
- d **N. J.** Rel. to societies for prevention of cruelty to animals: officers; enforcement of laws; certain fines to be paid to; property. 4§ '08 ch.148, Apr.10

#### Cruelty to children

*See 2172, Children*

900

### Intoxicating liquors. Narcotics

- a **La.** Regulating sale of intoxicating liquors. 14§ '08 ch.176, July 3
- b **N. Y.** Amdg. liquor tax law '96 ch.112 §6, 12, 16, 17, 19, 20: tax payable *Oct. 1* [May 1]; license for premises not to be issued [to holder of certificate or agent] for 1 year after violation of law. 6§ '08 ch.144, Apr.21

## LIQUORS

900

- c N. Y. Generally amdg. liquor tax law '96 ch.112. 18§  
'08 ch.350, May 19
- d Or. Amdg. Const. 1857 art.11 §2: municipalities given exclusive right to regulate theaters, race tracks, pool rooms, bowling alleys, billiard halls and sale of liquors subject to local option laws. Proposed by initiative petition and rejected June 1, 1908.
- e R. I. Amdg. G.L. ch.102 §2, 4, 6 rel. to sale of intoxicating liquors: 1 license for each 500 inhabitants; not to be sold on election, Labor or Christmas day nor to minors or women except in hotels and restaurants; not within 200 feet of school; bond; license to manufacture for sale beyond state may be granted in no-license place; license fees. 3§  
'08 ch.1583, May 22  
§6 amended '08 ch.1594, May 26
- f Va. Regulating manufacture and sale of intoxicating liquors; license taxes; drinking on trains prohibited. Rep. '03 ch.148 §141, 142. 30§  
'08 ch.189, Mar.12

902

### Prohibition

- a Ala. Prohibiting manufacture, sale or giving away of intoxicating liquors; sale by druggists and physicians; wine for sacramental purposes; social serving in private house excepted. 13§  
'07 (ex.sess.) p.71, Nov.23
- b Ala. Amdg. '07 p.790 §177 rel. to use of license money for support of schools: not to be construed to affect laws prohibiting sale of intoxicating liquor. '07 (ex.sess.) p.177, Nov.23
- c Ala. Prosecution for violation of prohibition laws: affidavit or indictment; trial by jury; evidence. '07 (ex.sess.) p.189, Nov.23
- d Ala. Penalty for sale of intoxicating liquor in prohibition district; carrier deemed agent of consignor for shipment into such district; liquor may be shipped for private use. 3§  
'07 (ex.sess.) p.191, Nov.23
- e Miss. Prohibiting manufacture or sale of intoxicating liquor. 8§  
'08 ch.113, Feb.19
- f N. C. Prohibiting manufacture and sale of intoxicating liquors. 10§. Adopted by referendum vote May 26, 1908. '08 ch.71, Jan.31

903

### Dispensaries

- a Okl. Establishing State Agency for Sale of Intoxicating Liquors; referendum vote; art.1 to become part of Const. on adoption. 30§. Rejected Nov. 1908. '08 ch.69 art.1, Mar.24  
Submitting same to popular vote, Nov. 1908. '08 p.770, Apr.16

904

### Local option

- a Ala. Requesting Cong. to prohibit sale of internal revenue licenses in prohibition districts. '07 (ex.sess.) p.68, Nov.23
- b Ind. Elections for local option by counties. 13§  
'08 ch.2, Sept.26
- c Ky. Amdg. '06 ch.87 §1 rel. to sale of liquor by manufacturer located in local option district. '08 ch.15, Mar.19

904

- d **Miss.** Requesting Cong. to prevent issuance of internal revenue licenses for sale of intoxicating liquor in prohibition territory. '08 ch.117, Mar.21
- e **N. C.** Msdr. to solicit orders for intoxicants in prohibition territory. '08 ch.118, Feb.1
- f **O.** Providing local option by counties. 10§ '08 p.35, Mar.5
- g **O.** Rel. to local option petitions in munic. residential districts. Adds §4a to '06 p.68. '08 p.52, Mar.31
- h **O.** Rel. to local option: petition in error; application of fines and forfeitures; C.O.D. shipments; clubs; contents of petition. Adds '06 p.12 §21a. '08 p.475, May 9
- i **S. D.** Local option for counties; vote at state election; not to affect result of subsequent munic. election; special county election; pharmacists excepted; penalties. Amds. '03 ch.166 §1. 5§. Proposed by initiative petition. Rejected Nov. 1908. '07 ch.179
- j **Va.** Amdg. C. §62 rel. to qualifications of voters at special and local option elections. '08 ch.73, Feb.25
- k **Va.** Amdg. C. §86c rel. to lists of voters having paid capitation tax in local option election. '08 ch.129, Mar.3
- n **W. Va.** Requesting Cong. to prohibit issuance of federal liquor license in no-license territory and give states police power over liquors shipped within borders. '08 p.253, Feb.7

907

#### Liquor licenses

- a **Mass.** Amdg. R.L. ch.100 §47: licensing bd. may forfeit *or suspend for period fixed by them*, liquor license. '08 ch.108, Feb.24
- b **Miss.** Requiring sheriff to obtain and publish list of persons holding internal revenue license for sale of intoxicating liquor. '08 ch.116, Mar.7
- c **N. J.** Amdg. '95 ch.372 §1, 3 rel. to bottler's license for sale of beer: required in cities [of 1st class], *towns, boroughs, or townships*, \$100 [\$75 and \$50 in cities of 2d class]; *holders of wholesale license exempt*; penalty *6 months or \$300* [\$50]. '08 ch.146, Apr.10
- d **N. Y.** Providing for refund of excise tax paid in excess of legal rate. Adds §25 subd.3 to liquor tax law '96 ch.112. '08 ch.46, Mar.23

909

#### Rates

- a **Ky.** Amdg. S.'03 §3076: liquor license in city of 2d class \$100 to \$500 [\$50 to \$150]. '08 ch.37, Mar.21

910

#### Regulations and restrictions

*See also* 149, Election offenses

- a **Md.** Msdr. for liquor dealer to offer free lunch except pretzels, cheese and crackers. '08 ch.597 (p.91), Apr.6
- b **Miss.** Amdg. and rep. sundry sections of C.'06 restricting selling or giving away of intoxicating liquor. 13§ '08 ch.115, Feb.19



## LIQUORS

### 911 *Minors Persons to whom prohibited*

- a **N. J.** Msdr. to allow child under 16 in dance hall, concert saloon, place where theatrical or moving picture exhibition is given or billiard or pool room unaccompanied by parent; msdr. to furnish intoxicating liquor to child under 18 or allow it to frequent place where sold. 4§ '08 ch.185, Apr.13

### 912 *Restricted localities*

- a **Ala.** Prohibiting drinking of intoxicating liquor in presence of passengers on railroad or street railway car. '07 (ex.sess.) p.87, Nov.23
- b **La.** Msdr. to drink intoxicating liquor on railroad train; dining cars excepted. 3§ '08 ch.79, June 30
- c **O.** Prohibiting use of intoxicants on train except in dining or café car. '08 p.12, Feb.14
- d **S. C.** Msdr. to drink liquors on passenger coaches; dining and buffet cars excepted. '08 ch.505, Feb.22

### 915 *Sunday sales*

- a **W. Va.** To prevent sale of intoxicating liquor on Sunday; places to be locked; bar to be in full view of street; duties of sheriffs; fine and jail sentence; offense of employee deemed that of employer; liquor not to be sold on premises for year after violation. 3§ '08 ch.14, Feb.26

### 916 *Illegal traffic*

- a **La.** Authorizing introduction in evidence of certificate of issuance of U. S. internal revenue license in prosecution for violation of liquor law; to be prima facie evidence. '08 ch.40, June 20
- b **Miss.** Amdg. C.'06 §1795-98: person receiving C.O.D. shipment of intoxicating liquor not to *sell or* give same away. 4§ '08 ch.114, Feb.19
- c **O.** Amdg. R.S. §6942 rel. to penalty for keeping place where intoxicants are sold unlawfully. '08 p.470, May 9
- d **W. Va.** Amdg. '05 ch.36 §24: where liquor disposed of contrary to law on licensed premises, court to enjoin sale thereof at such place for 1 year; order perpetual if premises not licensed. '08 ch.13, Feb.29

### 921 *Intoxication. Inebriates*

*See also* 446, Guardianship; 2310, Teaching of effects of alcohol and narcotics

- a **O.** Amdg. R.S. §6317 rel. to appointment of guardian of drunkard unable to care for himself *or neglecting to care for those dependent on him.* '08 p.483, May 9

### 923 *Punishment*

- a **La.** Msdr. to appear at peaceful assemblage or on railroad train in intoxicated condition. '08 ch.11, June 8

### 924 *Tobacco*

### 925 *Cigarettes*

- a **N. J.** Amdg. '04 ch.163 §1: msdr. to furnish cigarettes *or cigarette paper* [or tobacco] to minor under 18 [14]. '08 ch.17, Mar.17

926 **Opium, cocaine etc.**

- a **Ill.** Amdg. '01 p.238 §1, 14a-b regulating sale of cocaine, *alpha or beta eucaine*. Adds §14c. '08 p.88, Jan.17
- b **Ky.** Amdg. S. '03 §2630, 2635a rel. to sale of poisons, abortives and narcotics. '08 ch.29, Mar.19
- c **La.** Msdr. to sell cocaine except on written prescription of physician. '08 ch.200, July 8
- d **Mass.** Prohibiting sale of cocaine in public place or building or manufacture or sale of patent medicine containing cocaine anywhere. 4§ '08 ch.307, Mar.27
- e **N. J.** Certain narcotics to be sold only on prescription; msdr. to refill or fail to preserve prescription; msdr. to bring into state such drugs when wrongfully obtained in other state; wholesaling; labels. 5§ '08 ch.197, Apr.13
- f **N. Y.** Amdg. Pen. C. §405a rel. to sale of cocaine, eucaine etc.; record of sales between manufacturers and wholesalers. '08 ch.277, May 18
- g **O.** Amdg. '02 p.145 §1 rel. to sale of cocaine *and its preparations*: prescription; Bd. of Pharmacy to enforce. '08 p.473, May 9
- h **Va.** Felony to sell cocaine, alpha or beta eucaine except on physician's prescription; prescription to be filled but once. 4§ '08 ch.255, Mar.13

928 **Prostitution**

- a **Ill.** Pandering defined; penalty; female competent witness against husband. 3§ '08 p.47 June 1

929 **Sunday observance**

*See also 915, Intoxicating liquors*

- a **Ind.** Declaring unconst. '07 ch.64 prohibiting business of barbering on Sunday. Special law where general applicable. *Armstrong v. State* 84 N. E. 3 (1908)
- b **Mass.** Amdg. R.L. ch.98 §12: penalty to fish on Lord's day with hook, line, net, spear [or other implement]. '08 ch.123, Feb.26
- c **Mass.** Amdg. R.L. ch.98 §3: digging of clams and dressing of fish allowed on Lord's day. '08 ch.126, Feb.26
- d **Mass.** Amdg. R.L. ch.98 §3: unpaid work on pleasure boats allowed on Lord's day. '08 ch.273, Mar.25
- e **Mass.** Authorizing exposure of photographic plates and films on Lord's day provided pictures not intended for sale. '08 ch.333, Apr.1
- f **Mass.** Allowing delivery of ice cream on Lord's day. '08 ch.343, Apr.3
- g **Mass.** Authorizing posts of G.A.R. to parade with music on Memorial Sunday. '08 ch.354, Apr.3
- h **Mass.** Amdg. R.L. ch.98 §1, ch.102 §172: city or town may license public entertainment, in keeping with observance of day, on Lord's day to which admission may be charged; chief of District Police to approve in writing; penalty for violation \$500. '08 ch.385, Apr.11
- i **Mass.** Authorizing Spanish War veterans to parade with music on Memorial Sunday. '08 ch.537, May 23
- j **Va.** Amdg. C. §3799 rel. to violation of Sabbath: penalty; bond. '08 ch.180, Mar.11

930

## Public health and safety

932

## General supervision

*See also 2160, Sick and disabled*

- a Ga. Memorializing Cong. to establish U. S. Dept. of Health.  
'08 p.1037, Aug.18
- b N. J. Duties of State Sewerage Comn. to devolve on State Bd. of Health.  
'08 ch.297, Apr.16
- c N. J. Terminating terms of members of State Bd. of Health.  
'08 ch.298, Apr.16
- d N. J. Amdg. '87 ch.68 §1: State Bd. of Health to consist of [Sec. of State, Atty. Gen., State Geologist and 7] 6 persons appointed by Gov. and Senate; 1 to be sec. and physician; term 6 [7] years; *compensation \$1500*; proceedings of bd.  
'08 ch.299, Apr.16
- e O. Asking Cong. to establish national bureau of health.  
'08 p.627, Mar.5
- f O. Revising and consolidating laws rel. to State Bds. of Health, of Medical Registration and Examination, of Pharmacy, of Embalming Examiners. 99§  
'08 p.492, May 9
- g Okl. Creating State Comr. of Health; appointed by Gov., term 4 years, salary \$1800; supervision of health and return of vital statistics; state laboratory; county supt. of health appointed by State Comr.; township and city bds. of health; quarantine; nuisances; physicians to report births and deaths. Rep. '03 ch.5 §1-10. '08 ch.79 art.2, May 11
- h R. I. Amdg. G.L. ch.96 §1: State Bd. of Health to consist of 7 [6] members, *1 to be appointed at large*.  
'08 ch.1519, Mar.10
- i S. C. Gov. to appoint State Health Officer; salary \$2500, to hold office at pleasure of State Bd. of Health; duties of bd. and health officer. 6§  
'08 ch.433, Feb.24
- j Va. Amdg. C. §1713d: Bd. of Health to consist of 12 [7] members; health comr. created; appointed by Gov. for 4 years, salary \$3500; executive officer of Bd. of Health; assistants; laboratories; experiments and camps for treatment of tuberculosis; \$40,000 annually. Rep. §1714-18. 5§  
'08 ch.361, Mar.14

934

## Local boards and officers

- a Ga. Amdg. Const. 1877 art.7 §6: county may levy tax for county police and necessary sanitation. Adopted Nov. 1908. '08 p.33, Aug.17
- b N. Y. Authorizing county to establish laboratory and employ bacteriologist. Adds §40, 41 to county law '92 ch.686. '08 ch.255, May 11
- c N. Y. Amdg. public health law '93 ch.661 §21: local health officer to be allowed extra compensation for care of smallpox.  
'08 ch.339, May 19

936

## State laboratories

- a Md. Chemist for State Bd. of Health; salary \$2500. Adds C.'04 art.43 §5a.  
'08 ch.345 (p.152), Apr.13
- b Md. Amdg. C.'04 art.43 §54: assistant bacteriologist for State Bd. of Health.  
'08 ch.399 (p.153), Apr.13



938

### Vital statistics

*See also* 474, Family; 1052, Burial

- a N. Y. Amdg. public health law '93 ch.661 §22: local health bds. to register births [marriages] and deaths. '08 ch.14, Mar.2
- b O. Establishing bureau of vital statistics under supervision of Sec. of State; prompt and permanent registration of births and deaths. Rep. R.S. §2116, 2141, 6395-99; '86 p.77. 24§ '08 p.296, May 5

940

### State control of medicine

*See also* 2348, Medical schools

943

### License to practise

- a La. Requiring proof of state registration as prerequisite to issuing of license to physician, dentist or pharmacist by local authorities. '08 ch.75, June 30
- b La. Amdg. '94 ch.49 §2, 6, 13-15, 19, 20 rel. to practice of medicine etc.: examination for osteopaths and midwives; reciprocity with other states; enforcement; revocation of license. 7§ '08 ch.244, July 8

944

### Medicine

*See also* 1588, Veterinary practice

- a Kan. Amdg. '01 ch.254 §6 rel. to definition of practice of medicine. '08 (ex.sess.) ch.63, Jan.31
- b La. Amdg. '94 ch.49 §10: list of physicians published by State Bd. of Health *certified by sec.* to be received in evidence. '08 ch.95, July 1
- c Md. Amdg. C.'04 art.43 §101 rel. to definition of practice of medicine. '08 ch.120 (p.154), Mar.25
- d N. J. Amdg. '94 ch.306 §4: applicant for medical license to have studied four years in [normal, manual training or] *approved* high school [of 1st grade]. '08 ch.199, Apr.13
- e Okl. State Bd. of Medical Examiners established: 9 members, appointed by Gov., term 4 years; examination and certification of practitioners; revocation of certificate; licensing of peddlers of medicine. Rep. sundry acts. 23§ '08 ch.70a art.1, June 12
- f R. I. Amdg. G.L. ch.165 §3 rel. to examination of persons intending to practise medicine: does not apply to those practising at time of passage of act. '08 ch.1579, May 22
- g S. C. Amdg. '04 ch.292 §13 rel. to practice of medicine *and surgery*: Bd. of Medical Examiners may revoke license; specific license to osteopaths and homeopaths. Adds §5a. '08 ch.495, Feb.26

946

### Optometry

- a N. Y. Creating Bd. of Examiners in Optometry: 5 members appointed by Regents of University, terms 3 years; regulation of practice and examination and licensing of practitioners. Adds §209a-i to public health law '93 ch.661; rennumbers art.13 as 14. 10§ '08 ch.460, May 21

## PUBLIC HEALTH

947

### *Osteopathy*

- a **La.** Creating State Bd. of Osteopaths: 5 members appointed by Gov.; term 5 years; examination and licensing of osteopaths. 8§  
'08 ch.185, July 6

948

### **Dentistry**

- a **Ky.** Unlawful to practise dentistry under company name; dentist's certificate to be displayed in operating room; State Bd. of Dental Examiners may refuse to issue or cancel certificate for fraud or unprofessional conduct; hearing and appeal. Adds S.'03 §2641a-b.  
'08 ch.48, Mar.19
- b **Mass.** Amdg. R.L. ch.76 §26 rel. to practice of dentistry: candidate for license to have good moral character; person advertising by sign or in newspaper deemed practising. '08 ch.294, Mar.25
- c **O.** Creating State Dental Bd. of 5: appointed by Gov. and Senate, term 5 years; \$10 per diem; regulation of practice of dentistry; qualifications, examination and licensing of candidates; penalties. Rep. R.S. §4404, 6991. 27§  
'08 p.66, Apr.7
- d **R.I.** Amdg. G.L. ch.155 §6 rel. to practice of dentistry: dental corp. not to employ unregistered dentist; practice defined.  
'08 ch.1553, Apr.30

948(5)

### **Chiropody**

- a **N. J.** State Bd. of Medical Examiners to examine applicants to practise chiropody; registration; regulations; penalties. 14§  
'08 ch.194, Apr.13

949

### **Pharmacy**

- a **Ala.** Reorganizing Bd. of Pharmacy: 3 members appointed by Gov.; term 3 years; examination and licensing of pharmacists; regulations for sale of drugs. Rep. C.'96 §3248-59, 5335. 11§  
'07 (ex.sess.) p.81, Nov.22
- b **Ky.** Authorizing Ky. Bd. of Pharmacy to exchange certificates of registration with other states. '08 ch.58, Mar.19
- c **Mass.** Amdg. R.L. ch.76 §14,18,23 rel. to practice of pharmacy: assistant's certificate; receiver of reciprocity certificate to announce intention of practising in state; registration fee \$10 [\$5]; name to appear on sign and labels; unregistered copartner not to be engaged in active practice. 3§  
'08 ch.525, May 15
- d **Va.** Regulating practice of pharmacy and composition and branding of drugs; Bd. of Pharmacy continued. Rep. C. §1756-66. 37§  
'08 ch.291, Mar.14

952

### **Sale of drugs**

*See also* 949, Pharmacy; 956, Adulteration

- a **Ky.** Amdg. S.'03 §2630, 2635a rel. to sale of poisons, abortives and narcotics. '08 ch.29, Mar.19
- b **N. J.** U. S. Pharmacopoeia to be received in evidence in proceeding rel. to adulteration of drugs. '08 ch.252, Apr.14  
Same. Time of taking effect changed. '08 ch.253, Apr.14
- c **Va.** Regulating practice of pharmacy and composition and branding of drugs; Bd. of Pharmacy continued. Rep. C. §1756-66. 37§  
'08 ch.291, Mar.14

956 **Adulteration. Inspection of articles liable to affect public health**

*See also* 1466, Adulterations and imitations

- a **Ga.** Rel. to Chief Food Inspector: appointment; salary; enforcement of law; assistants. Amds. '06 p.83 §10. 3§ '08 p.80, Aug.17
- b **Ky.** Pure food and drug law. 14§ '08 ch.4, Mar.13
- c **Mass.** Rep. R.L. ch.75 §25, 26 which fixed penalties for adulteration of food and drugs. '08 ch.238, Mar.18
- d **Mass.** Amdg. R.L. ch.56 §70-72 rel. to inspection of meats and provisions by local bds. of health *or their agents*. 3§ '08 ch.411, Apr.17
- e **N. J.** Rel. to adulteration of foods and drugs. Amds. '07 ch.217 §3, 4, 46. 4§ '08 ch.308, Apr.16
- f **O.** Amdg. '84 p.67 §1, 3, 5 rel. to adulteration *and misbranding* of drugs and foods: definitions; penalties. Adds §3a. 4§ '08 p.257, May 1
- g **O.** Penalty for resisting Dairy and Food Comr. or inspectors. Adds '04 p.30 §3a. '08 p.386, May 9
- h **Okl.** Creating Pure Food, Dairy and Drug Comn. to consist of president, sec. and treasurer of Bd. of Agric., Comr. of Health and sec. of Bd. of Pharmacy; adulteration of food and drugs defined; enforcement of laws; laboratory. 66§ '08 ch.37 art.1, May 26
- i **R. I.** Creating Bd. of Food and Drug Comrs.; 3 members, appointed by Gov. and Senate, term 5 years; to enforce pure food and drug law; standards. 15§ '08 ch.1597, May 26
- j **Va.** Creating Dairy and Food Comr. in Dept. of Agric. and Immigration: appointed by Gov. and Gen. Assembly, term 4 years; salary \$2500; standards of foods, drinks and commercial feeding stuffs; enforcement. 17§ '08 ch.188, Mar.11
- k **Va.** Pure food law. Rep.'00 ch.655. 14§ '08 ch.372, Mar.14

961 **Milk and milk products**

- a **Mass.** Amdg. R.L. ch.89 §12: annual appropriation of \$8000 [\$7000] for dairy bureau of State Bd. of Agric. '08 ch.416, Apr.17
- b **Mo.** Declaring unconst. '05 p.133 §5 fixing standard of dairy products and providing penalty for violation. Subject not in title.  
City of St Louis v. Wortman 112 S. W. 520 (1908)

964 **Butter and cheese**

965 *Butter. Imitation and adulteration. Oleomargarin*

- a **O.** Requiring marking of renovated or process butter. 3§ '08 p.243, Apr.30

967 **Milk**

- a **Mass.** Providing for proper marking of "heated" milk. '08 ch.570, June 1
- b **N. J.** Amdg. '07 ch.217 §6, 8 rel. to sale of "modified" milk. '08 ch.260, Apr.14
- c **O.** Amdg. '89 p.229 §1 rel. to impure milk: that from cows fed on wet distillery waste or starch waste or kept in place declared unsanitary by health authorities, included. '08 p.239, Apr.30



## PUBLIC HEALTH

967

- d O. Unlawful to fill with milk or milk product bottle having name of another blown thereon or bottle not cleansed and sterilized. 3§  
'08 p.454, May 9

970

### *Test. Standard*

- a Mass. Amdg. R.L. ch.56 §56 rel. to standard of milk.  
'08 ch.643, June 13

972

### Other articles of food and drink

978

#### Cereals. Starches. Bread

- a Mass. Amdg. R.L. ch.57 §6 rel. to penalty for selling bread under weight. '08 ch.197, Mar.10  
b S. C. Unlawful to sell adulterated rice flour. '08 ch.476, Feb.17

1000

#### Meats. Fish (fresh)

1004

##### *Meats*

*See also* 1083, Slaughterhouses

- a Kan. Meat containing sulphites, sulphur dioxide or any secret preparation declared adulterated. Supplements '07 ch.266.  
'08 (ex.sess.) ch.64, Jan.30

1008

#### Sugars. Syrups. Confectionery

- a N. C. Amdg. Revisal '05 §3444 subd.6: saccharine not considered food adulterant. '08 ch.117, Feb.1

1014

#### Vinegar. Cider

- a O. Amdg. R.S. §4200 subd.50, 51 rel. to adulteration of vinegar. 3§  
'08 p.28, Feb.28

1020

### Communicable diseases

*See also* 1065, Nuisances; 1144, Communicable diseases of animals

- a N. J. State Bd. of Health to have charge of epidemics in state institutions. '08 ch.292, Apr.15

1022

#### Report of diseases

- a N. Y. Amdg. public health law '93 ch.661 art.2 §24 rel. to communicable diseases: physicians required to report to local bd. of health immediately; report of latter to State Dept. of Health.  
'08 ch.396, May 20

1026

#### Protective inoculation

1027

##### *Vaccination*

- a Mass. Rep. R.L. ch.75 §136 which provided penalty for failure to vaccinate child over 2 years old. '08 ch.337, Apr.1

1028

##### *Antitoxin*

- a O. Requiring county to furnish antitoxin for indigent persons.  
'08 p.19, Feb.26

1029 Disinfection

- a Mass. Requiring disinfection of machine in public place parts of which persons hold to mouth, eyes or ears; telephones excepted; lung-testing machine in public place parts of which are held to mouth prohibited. 3§ '08 ch.381, Apr.10

1030 Special diseases

1042 Tuberculosis

- a Ga. Establishing and organizing state sanatorium for treatment of tuberculosis patients; \$25,000. 9§ '08 p.101, Aug.17
- b Ill. Authorizing cities and villages to maintain tuberculosis sanatoriums; organization and govt. 11§ '08 p.43, Mar.3
- c Ky. Annual appropriation to private sanatorium for treatment of pulmonary tuberculosis of 1/5 of amount expended for equipment and maintenance, not to exceed \$350 per bed. 10§ '08 ch.12, Mar.26
- d Md. Increasing Bd. of Managers of Md. Tuberculosis Sanitarium from 6 to 7 members. Amds. '06 ch.308. '08 ch.328 (p.293); Apr.6
- e Mass. Amdg. R.L. ch.42 §1: instruction as to tuberculosis and its prevention required in public schools. '08 ch.181, Mar.6
- f Mass. Amdg. '07 ch.474 §5, 7 rel. to erection of 3 sanatoriums for tuberculosis: may be built 1 at time. '08 ch.532, May 19
- g N. Y. Amdg. '00 ch.416 §13: female resident of state 5 years may be admitted as free patient in state tuberculosis hospital, though not citizen. '08 ch.97, Apr.9
- h N. Y. Rel. to tuberculosis: physician required to report cases; local health officer required to examine sputum on request; records not to be public; premises occupied by patient must be disinfected on removal; prohibiting carelessness by patient; protection of patient's family; local health officers to furnish printed instructions and precautions; action thereon; penalties. 13§ '08 ch.351, May 19
- i O. Requiring erection of county hospitals for tuberculosis; regulations. 5§ '08 p.62, Apr.3  
§3 amended. '08 p.121, Apr.15
- j O. Govt. of Ohio State Sanatorium and admission of patients. 9§ '08 p.235, Apr.29
- k Va. Rel. to tuberculosis: person in public institution or prison afflicted with, to be isolated; apartments infected with not to be leased till disinfected by Bd. of Health. 4§ '08 ch.41, Feb.15
- n Va. Amdg. C. §1713d: Bd. of Health to consist of 12 [7] members; Health Comr. created; appointed by Gov. for 4 years, salary \$3500; executive officer of Bd. of Health; assistants; laboratories; experiments and camps for treatment of tuberculosis; \$40,000 annually. Rep. §1714-18. 5§ '08 ch.361, Mar.14
- p W. Va. Joint legis. committee of 5 to investigate tuberculosis hospitals of Eastern States; to secure option on site in state; report at session of 1909. '08 p.250, Feb.17

1048

**Disposition of the dead**

1051

**Practice of embalming and undertaking**

- a Md. Amdg. '02 ch.160 §2, 5, 7, 8, 11, 14 rel. to State Bd. of Undertakers. Adds §14a-b. 8§ '08 ch.496 (p.294), Apr.6
- b N. J. Amdg. '06 ch.219 t. and §5-7, 9-11 rel. to practice of embalming and disposal of dead human bodies. 7§ '08 ch.124, Apr.8
- c R. I. Creating State Bd. of Registration in Embalming; 3 members, term 3 years, appointed by Gov. and Senate; unlawful to practise without certificate of bd. 11§ '08 ch.1575, May 19

1052

**Burial permits***See also 938, Vital statistics*

- a N. J. County physician to certify to cause of death of inmate of state institution. '08 ch.294, Apr.15

1054

**Cemeteries**

- a O. Amdg. R.S. §2536 rel. to union cemeteries: surplus income may be used for purchasing additional grounds. '08 p.70, Apr.7

1055

*Public cemeteries*

- a O. Amdg. '98 p.153 §1: association *or church* may convey public burying ground to township trustees. '08 p.97, Apr.10
- b O. Amdg. R.S. §2533 rel. to election of union cemetery trustees by electors of joint union cemetery districts. '08 p.472, May 9
- c O. Authorizing acquiring of land for new approach to public cemetery. 3§ '08 p.522, May 9

1056

*Cemetery associations*

- a Ky. Amdg. '06 ch.143 §2 rel. to dissolution of cemetery associations. '08 ch.72, Mar.27
- b Okl. Organization and management of cemeteries. Amds. '05 ch.10 art.1 §5, rep. §1, 2. 10§ '08 ch.11 art.1, May 27

1057

*Location. Vacation*

- a Mass. Local bd. of health to approve location of new cemetery; appeal to State Bd. of Health. Amds. R.L. ch.78 §30. 3§ '08 ch.379, Apr.10

1058

*Burial lots*

- a La. Authorizing cemetery company to hold in trust forever burial lots for owners and descendants. '08 ch.190, July 6

1061

**Cremation**

- a N. J. Regulating crematories: to be licensed by State Bd. of Health; disposition of ashes and bodies; records; report to county bd. of vital statistics. 4§ '08 ch.251, Apr.14

1062

**Dissection**

- a Miss. Amdg. C.'06 §5038: unclaimed bodies of persons dying in hospitals to be given to State University *or any medical college, former to have preference.* '08 ch.205, Feb.20



1065 **Nuisances (general). Miscellaneous health regulations**

- a R. I. Prohibiting burning materials on dumping ground so as to be nuisance to occupant of adjacent land. '08 ch.1523, Apr.3
- b R. I. Town council authorized to bring suit to restrain use of premises for trades declared nuisances. Adds G.L.ch.91 §23. '08 ch.1524, Apr.8

1069 **Disposal of carcasses**

*See also 1150, Communicable diseases of animals*

- a Ga. Amdg. Pen.C.'95 §492: msdr. to place carcass of animal in stream or road or on premises of another without burying sufficiently deep. '08 p.41, Aug.17

1073 **Expectoration**

- a La. Msdr. to expectorate on floor and walls of passenger cars and public buildings; clean spittoons to be furnished and signs displayed. '08 ch.91, July 1
- b Mass. Amdg. '06 ch.165 §1 which prohibits expectoration in certain public places. '08 ch.150, Mar.2
- c R. I. Prohibiting spitting in public places. '08 ch.1595, May 26

**Garbage, see 2663(5)**

1079 **Pollution of water**

*See also 932, Public Health; 2661, Sewerage*

- a Mass. Authorizing cities, towns and fire districts to acquire lands and buildings within watershed to preserve purity of water supply. 6§ '08 ch.499, May 7
- b Mass. Authorizing arrest of person bathing in water supply of city or town. '08 ch.539, May 26
- c O. Authorizing State Bd. of Health to prevent pollution of streams and lakes and require installation of sewage disposal plants; procedure; penalties. 7§ '08 p.74, Apr.8
- d O. Gov. to appoint comn. of 3 to recommend measures to prevent pollution of Ohio river; Pa., W. Va., Ind. and Ky. requested to coöperate by appointing similar comns. '08 p.637, Apr.29

1083 **Slaughterhouses. Butchers**

- a Mass. Regulating slaughter of animals and providing for inspection and sale of carcasses. Amds. R.L.ch.75 §105. 7§ '08 ch.329, Mar.31

1084 **Smoke**

- a Mass. Rel. to what emission of smoke constitutes nuisance. Amds. R.L.ch.102 §122. '08 ch.187, Mar.9

1085 **Stables**

- a La. Amdg. '98 ch.136 §15 ¶3: stable may not be located in municipality within 300 feet of church nor in residential district without consent of majority of residents living within 300 yards. '08 ch.230, July 8

**Weeds**

*See 1854, Agriculture*

## PUBLIC SAFETY

1090

### Public safety

Protection of human life from accidents, casualties etc. *See also* 1313, Railroads; 2052, Safety of employees

1092

### Fires

*See also* 1322, Railroads; 1893, Forest fires; 2603, Fire departments

- a **Kan.** Amdg. G.S.'01 §994 rel. to power of council of city of 2d class to regulate buildings with regard to prevention of fire.  
'08 (ex.sess.) ch.34, Jan.31

1093

### Fire marshals. Inspection

- a **Md.** Amdg. C.'04 art.23 §206: expense of office of Fire Marshal not to exceed \$6500 [\$5500] per year. '08 ch.172 (p.67), Mar.30

1096

### Fire alarms

- a **N. Y.** Amdg. Pen.C. §639a: msdr. to tamper with fire alarm *or any auxiliary fire appliance*. '08 ch.276, May 18

1099

### Buildings: sanitation and safety

*See also* 1534, Architects; 2052, Safety of employees; 2235, Schools

- a **Kan.** Amdg. G.S.'01 §994 rel. to power of council of city of 2d class to regulate buildings with regard to prevention of fire.  
'08 (ex.sess.) ch.34, Jan.31
- b **Mass.** Amdg. R.L. ch.104 §4 rel. to inspection of buildings.  
'08 ch.221, Mar.14
- c **Mass.** Authority of chief or deputy chief of inspection dept. of metropolitan police and inspectors of factories and public buildings to enter buildings; penalty for resisting; enforcement. 3§  
'08 ch.389, Apr.11
- d **N. J.** Authorizing village trustees to regulate erection and alteration of buildings; inspection. '08 ch.64, Apr.2
- e **N. J.** Bd. of public works of city authorized to pass ordinances regulating buildings, disposition of garbage, markets; penalties for violations.  
'08 ch.68, Apr.2
- f **O.** Munic. corp. may control construction, repair, and use of buildings used for human habitation. Adds '02 (ex.sess.) p.20 §7ff.  
'08 p.124, Apr.15
- g **O.** Rel. to Chief Inspector of Workshops and Factories: to inspect buildings where people assemble in numbers rel. to fire danger and sanitation; to approve plans for construction or alteration of such buildings except in municipality having building dept.; to have assistant, practical architect, at salary of \$2500; 10 additional district inspectors; penalties. 9§  
'08 p.232, Apr.28
- h **R. I.** Regulating construction and use of theaters, halls, churches and schoolhouses so as to diminish danger to life in case of fire. 11§  
'08 ch.1536, Apr.22

1102

### Exits

- a **La.** Doors of public buildings and factories to open outwardly.  
'08 ch.73, June 30

**1103** *Fire escapes*

- a **O.** Amdg. R.S. §2573: factory, tenement house or inn 3 stories high to be equipped with life-saving device or net. '08 p.83, Apr.9
- b **Okl.** Requiring metallic fire escapes on certain buildings; rope fire escapes in addition in some; notices of location to be posted; fire chiefs to inspect buildings. 5§ '08 ch.38 art.1, Apr.28

**1104** *Fire limits*

- a **La.** Amdg. '06 ch.91 rel. to fire limits and construction of buildings in municipality of over 1000. 7§ '08 ch.234, July 8

**1105** *Hight. Street alinement*

- a **Mass.** Authorizing Metropolitan Park Comm. to permit projection of eaves or ornaments of buildings beyond restriction lines and over lands under control of comm. '08 ch.158, Mar.2
- b **Va.** Amdg. C. §1038: council of city or town authorized to acquire public utility within or without limits, to establish parks and playgrounds, to require owners in certain localities to leave certain per cent of lots free from buildings, to regulate hight of buildings. '08 ch.349, Mar.14

**1108** *Hotels. Lodging houses*

- a **Okl.** Rel. to hotels and lodging houses: fire escapes and extinguishers; elevators; plumbing and water-closets; size of sheets; disinfection of bed clothes; clean towels; enforcement. 19§ '08 ch.43 art.1, May 27

**1109** *Public halls*

- a **Mass.** Building not to be used as theater or public hall without license from chief of district police or certificate of inspector of factories and public buildings; license or certificate to be posted; penalties. 3§ '08 ch.335, Apr.1
- b **Mass.** Amdg. '07 ch.550 §111 ¶5: person not to remain in aisle [passageway] or stairway of theater during performance. '08 ch.336, Apr.1

**1110** *Tenement houses*

- a **N. Y.** Amdg. labor law '97 ch.415 §100: provision requiring tenement house license to be framed and hung in hallway repealed. '08 ch.174, Apr.28
- b **N. Y.** Amdg. '01 ch.334 §32, 67, 71, 91 rel. to tenement houses in cities of 1st class: construction of bulkheads and scuttles; courts; alcove rooms; apartments in cellars. Adds §97a. 5§ '08 ch.250, May 11
- c **Wis.** Declaring unconst. '07 ch.269 regulating construction and maintenance of tenement houses. Provisions not within police power. Bonnett v. Vallier 116 N. W. 885 (1908)

**1112** *Floods. Life saving*

*See also* 1180, Water storage; 1197, Levees and dikes



## PUBLIC SAFETY

1113

### Floods

- a N. J. Rep. '04 (ex. sess.) ch. 4 creating River Flood District Comm. to take measures to regulate overflow of flood rivers. '08 ch. 218, Apr. 13
- b N. J. Rep. '05 ch. 218 creating Passaic river flood district. '08 ch. 219, Apr. 13
- c N. J. Rep. '06 ch. 154 appropriating \$20,000 for investigation of control of waters in Passaic river flood district. '08 ch. 224, Apr. 13

Dams and reservoirs, *see* 1180

1117

### Explosives

*See also* 1493, Petroleum products

- a Mass. Amdg. '04 ch. 370 § 3 rel. to license for storage of explosives: for 1 year; renewal; revocation; fee. '08 ch. 502, May 7
- b O. Regulating manufacture, handling and storage of explosives. Rep. sundry acts. 9§ '08 p. 211, Apr. 27

1124

### Miscellaneous

1128

#### Boilers and engineers

- a Mass. Amdg. '07 ch. 465 § 1, 18: steam boilers to conform to rules [of construction] of Bd. of Boiler Rules. '08 ch. 563, June 1
- b Okl. Felony to require employee to enter steam boiler under steam pressure for purpose of repair or cleaning; employee not considered to have assumed risk. 4§ '08 ch. 72 art. 3, Mar. 23

1129

#### INSPECTION

- a O. Amdg. '00 p. 33 § 2, 3, 5 rel. to examination of steam boiler engineers: 10 [8] districts; *assistant chief examiner*; salaries of examiners and clerks. 3§ '08 p. 478, May 9

1144

### Communicable diseases of animals

- a La. Establishing State Live Stock Sanitary Bd. to consist of Comr. of Agric., professor of veterinary medicine at State University, entomologist of state experiment stations and 2 appointees of Gov. with term of 4 years; plenary power to establish quarantines and eradicate contagious diseases of animals. 8§ '08 ch. 274, July 9
- b Mass. In city 1 inspector of animals to be registered veterinary surgeon. '08 ch. 378, Apr. 10
- c Mass. Amdg. ch. 90 § 11, 27: *Chief of Cattle Bureau of State Bd. of Agric. or local inspector of animals* [Bd. of Cattle Comrs. or its employees] to be notified of existence of contagious disease among animals. '08 ch. 515, May 14
- d Miss. Creating State Live Stock Sanitary Bd. to consist of Comr. of Agric. and Commerce, professors of animal husbandry and veterinary science at Agric. and Mechanical College and 2 appointees of Gov., latter at \$5 per diem; to have plenary powers to deal with infectious diseases of animals; importation; quarantine; reports. 8§ '08 ch. 106, Mar. 20

1144

- e N. Y. Amdg. agric. law '93 ch.338 §67, 68, 70a rel. to communicable diseases of animals: quarantine; test of herds; experiments; bureau of veterinary service established in Agric. Dept.; appraisal of diseased animals; compensation of animals destroyed. Adds §63a. 4§

'08 ch.518, June 12

- f Va. Amdg. C. §1599, 1599a rel. to suppression of communicable diseases of domestic animals.

'08 ch.203, Mar.12

1148

### Importation

- a La. Unlawful to import cattle or horses having communicable disease.

'08 ch.281, July 9

- b Md. Importation of dairy cows and meat cattle for breeding purposes without inspection under supervision of State Live Stock Sanitary Bd. 5§

'08 ch.365 (p.172), Apr.6

1150

### Disposal of carcasses

See also 1069, Nuisances

- a Okl. Msdr. for owner to neglect to bury carcass of animal. 3§

'08 ch.4, art.1, May 26

1151

### Special diseases

1163

#### Rabies

- a O. Amdg. '04 p.68 §1: county to pay for treatment of person bitten by dog, *cat or other animal* afflicted with rabies; payable out of *gen.* [dog tax] fund.

'08 p.82, Apr.9

1167

#### Tuberculosis

- a N. J. Amdg. '86 ch.225 §5: standing appropriation to State Comm. on Tuberculosis in *Animals* for expenses and payments for slaughtered animals \$25,000 [\$10,000].

'08 ch.'97, Apr.6

1180

## Control of waters

See also 1113, Floods; 1384, Canals; 1393, Bridges; 1800, Navigation

- a N. J. Rep. '04(ex.sess.)ch.4 creating River Flood District Comm. to take measures to regulate overflow of flood rivers.

'08 ch.218, Apr.13

- b N. Y. Amdg. '04 ch.734 §11: bonds issued by River Improvement Comm. to bear 5% [4%] interest.

'08 ch.180, Apr.28

1190

### Power rights. Water storage

- a Ga. Authorizing construction of dam across nonnavigable stream by riparian owners of both banks.

'08 p.78, Aug.12

- b Ill. Amdg. Const. 1870: Ill. and Mich. Canal *or other canal or waterway owned by state* to be sold or leased only on vote of people; *construction of deep waterway from Chicago Sanitary District to Ill. river; issue of \$20,000,000 of bonds for construction; lease of water power developed.* Adopted Nov. 1908.

'07(ex.sess.)p.102, Oct.16

## CONTROL OF WATERS

1190

- c Ill. Committee to investigate rights of state in certain navigable waters, development of water power and building of deep waterways; to consist of 10 members of Legis. and 5 appointees of Gov.; report to Gov. Aug. 1, 1908. '07 (ex.sess.) p.103, Oct.16
- d Ky. Granting right of eminent domain to corp. maintaining dam in stream to improve navigation or develop power. '08 ch.2, Mar.4

1192

### Drains. Dikes. Levees

*See also 2661, Sewerage; 2730, Roads*

- a Ia. Amdg. Const. 1857 art.1 §18: Legis. may regulate construction of drains etc. across private lands, provide for organization of drainage districts and maintenance of drains. Adopted Nov. 1908. '06 p.210, Apr.10; '07 p.282, Apr.1
- b Ky. Amdg. sundry subd. of S.'03 §2380, 2412a rel. to drainage of lands. 9§ '08 ch.73, Mar.27
- c La. Authorizing bds. of comrs. of drainage districts to donate to U. S. portions of rights of way for canal purposes. '08 ch.19, June 15
- d La. Creating subdivisions of drainage districts. 4§ '08 ch.305, July 9
- e N. J. Rel. to drainage of marshes etc.: assmt.; bond issue; appeals; unlawful to obstruct ditch. Amds. '03 ch.93 §11, 12, 14, 15. 6§ '08 ch.168, Apr.11
- f N. J. Service of notice on municipality of hearing to determine necessity for drain. Supplements '03 ch.93 §4. '08 ch.170, Apr.11
- g N. Y. Amdg. R.S. pt.3 ch.8 tit.16 §9, 10 rel. to drainage: abandonment of drains; assmt.; change of drains in village on land of petitioning freeholder. Adds §38. '08 ch.439, May 20
- h O. Authorizing county comrs. to construct ditches to drain marshes near natural waterway. Adds R.S. §4447a. '08 p.391, May 9
- i Okl. Drainage act. 35§ '08 ch.30 art.1, May 29

1193

### Corporations

- a N. C. Authorizing drainage company to issue bonds. Amds. Revisal 1905 ch.88. '08 ch.75, Feb.1

1194

### Assessment

- a La. Amdg. '02 ch.145 §27 rel. to holding election for imposition of drainage tax. '08 ch.317, July 9
- b Minn. Declaring unconst. '07 ch.448 §40 rel. to assmt. of land not already assessed for construction of new ditch connecting with old one. Deprives of property without compensation or due process of law. Lyon County v. Lien 116 N. W. 1017 (1908)

1195

### State ditches

- a Ky. Amdg. S.'03 §2412a rel. to public ditches and creeks: act not to apply to navigable streams. '08 ch.23, Mar.19

1196

### Cleaning. Repair. Obstruction

- a La. Msdr. to obstruct drainage canal. '08 ch.310, July 9
- b O. Amdg. '06 p.280 §3, 7, 11 rel. to apportioning work of cleaning drainage ditches: persons liable; appeal; construction of drain. Adds §5a-c. 6§ '08 p.237, Apr.29



1197 *Levees. Dikes*

*See also* 1113, Floods

- a **Ky.** Penalty for allowing hogs to run at large on levee; tax of 50c on \$100 for building and repairing levees. Adds S.'03 §938a subd. 12, 13. '08 ch.38, Mar.20

**Pollution of water,** *see* 1079

1199 **Hot springs. Mineral waters**

- a **N. Y.** Unlawful to accelerate flow of waters or gas of mineral spring by pumping; procedure to restrain. 5§ '08 ch.429, May 20

1200 **Transportation and communication**

*See also* 1800, Navigation

1204 **Rates. Discrimination**

- a **Okl.** Msdr. for agent of railroad, express, telegraph or telephone company knowingly to overcharge or conceal schedule. 5§ '08 ch.13 art.3, May 26

1205 **Discriminations**

- a **La.** Instructing Atty. Gen. to investigate alleged discrimination of Tex. Railway Comm. against La. and seek relief from federal authorities. '08 ch.195, July 8

1212 **Freight rates**

- a **Ala.** Railroad Comm. or Atty. Gen. not to enforce statutes or orders rel. to passenger fares and freight rates on railroads. '07(ex.sess.)p.28, Nov.23
- b **Ala.** Rep. '07 p.209 which prescribed maximum freight rates. '07(ex.sess.)p.29, Nov.23
- c **Ala.** Appeal by common carrier from order of Railroad Comm. rel. to rates and fares: order suspended during; common carrier to furnish bond to indemnify shippers and passengers if order sustained. 4§ '07(ex.sess.)p.49, Nov.23
- d **Ala.** Rep. '07 p.135 §18, 36-40, 43, 45 rel. to appeals from orders of Railroad Comm. establishing rates. '07(ex.sess.)p.57, Nov.23
- e **Ala.** Amdg. '07 p.207 §2 which prohibits employee of common carrier charging more than statutory rates: penalty; liable for act of subordinate acting under defendant's orders; subordinate compelled to testify under immunity. '07(ex.sess.)p.58, Nov.23
- f **Ala.** Rep. '07 p.285 rel. to contest by common carrier of validity of rate prescribed by statute. '07(ex.sess.)p.59, Nov.23
- g **Ala.** Prohibiting common carrier publishing, charging or receiving higher rate for transportation of freight or passengers than prescribed by statute or Railroad Comm.; action to recover penalties. 5§ '07(ex.sess.)p.77, Nov.23
- h **Ala.** Maximum freight rates on railroads for "group 3" articles; Railroad Comm. may change. 6§ '07(ex.sess.)p.91, Nov.23
- i **Ala.** Maximum freight rates on railroads for "group 7" articles; Railroad Comm. may change. 6§ '07(ex.sess.)p.101, Nov.23

## TRANSPORTATION

1212

- j **Ala.** Maximum freight rates on railroads for "group 4" articles; Railroad Comn. may change. 6§ '07(ex.sess.) p.117, Nov.23
- k **Ala.** Maximum freight rates on railroads for "group 1" articles; Railroad Comn. may change. 6§ '07(ex.sess.) p.125, Nov.23
- n **Ala.** Maximum freight rates on railroads for "group 2" articles; Railroad Comn. may change. 6§ '07(ex.sess.) p.133, Nov.23
- p **Ala.** Maximum freight rates on railroads for "group 5" articles; Railroad Comn. may change. 6§ '07(ex.sess.) p.143, Nov.23
- q **Ala.** Maximum freight rates on railroads for "group 8" articles; Railroad Comn. may change. 6§ '07(ex.sess.) p.152, Nov.23
- r **La.** Amdg. Const. 1898 art.286: rate fixed by Railroad Comn. to remain in force till set aside by courts; penalties; authority of comn. extended. Adopted Apr. 1908. '07 ch.14, Nov. 28
- s **Minn.** Declaring unconst. '07 ch.97 rel. to passenger rates on railroads and '07 ch.232 rel. to freight rates on railroads. Deny equal protection of law because of excessive penalties imposed.  
Ex parte Young 209 U. S. 123 (1908)
- t **N. C.** Amdg. '07 ch.217 §1: Corp. Comn. authorized to exempt from regulations of act part of charges of joint haul over railroad less than 125 miles long. '08 ch.126, Feb.1
- u **O.** Amdg. '06 p.342 §8, 14, 31 rel. to common carriers: to whom passes may be issued; Railroad Comrs. to fix joint rate where railroads fail to agree; procedure for recovery of damages for injury to freight. 3§ '08 p.128, Apr.21

1227

### Passenger rates

: See also 1365, Street railways

- a **Ala.** Railroad Comn. or Atty. Gen. not to enforce statutes or orders rel. to passenger fares and freight rates on railroads. '07(ex.sess.) p.28, Nov.23
- b **Ala.** Appeal by common carrier from order of Railroad Comn. rel. to rates and fares: order suspended during; common carrier to furnish bond to indemnify shippers and passengers if order sustained. 4§ '07(ex.sess.) p.49, Nov.23
- c **Ala.** Rep. '07 p.135 §18, 36-40, 42, 43, 45 rel. to appeals from orders of Railroad Comn. establishing rates. '07(ex.sess.) p.57, Nov.23
- d **Ala.** Prohibiting common carrier publishing, charging or receiving higher rate for transportation of freight or passengers than prescribed by statute or Railroad Comn.; action to recover penalties. 5§ '07(ex.sess.) p.77, Nov.23
- e **Ala.** Prohibiting common carrier from preventing access to train by person offering to purchase ticket at rate prescribed by statute or Railroad Comn.; recovery of penalty; employee guilty of msdr. 4§ '07(ex.sess.) p.60, Dec.3
- f **Ala.** Authorizing recovery of damages by person ejected from train for refusal to pay fare higher than prescribed by statute or Railroad Comn. '07(ex.sess.) p.66, Dec.3
- g **Ala.** Railroad liable in damages for refusal to carry passenger for rate of fare prescribed by statute or Railroad Comn.; injunction *pendente lite* no defense. 4§ '07(ex.sess.) p.87, Dec.3

1227

- h** **Minn.** Declaring unconst. '07 ch.97 rel. to passenger rates on railroads and '07 ch.232 rel. to freight rates on railroads. Deny equal protection of law because of excessive penalties imposed.

Ex parte Young 209 U. S. 123 (1908)

- i** **N. C.** Passenger rate on railroad 2½c, half rate for children; 3c on road less than 100 miles; msdr. to give or receive pass unless authorized by law. Rep. Revisal '05 §2618, '07 ch.216. 8§

'08 ch.144, Feb.1

- j** **S. C.** Amdg. C.C. §2165: independent railroad not over 5 miles long may be allowed by Railroad Comm. to charge 5c per mile.

'08 ch.469, Feb.24

1228

*Commutation tickets*

- a** **Mass.** But 1 coupon to be detached from railroad mileage book for each mile; exceptions for short distances; commutation rates in vicinity of Boston. Amds. '06 ch.463 pt.2 §183. 3§ '08 ch.649, June 13

1231

*Excess fare on train*

- a** **O.** Railroad may collect 10c excess fare on train from passenger without ticket boarding train at station with ticket office open 30 minutes prior to departure of train. Adds R.S. §3374a. '08 p.65, Apr.7

1232

*Mileage books*

- a** **Mass.** But 1 coupon to be detached from railroad mileage book for each mile; exceptions for short distances; commutation rates in vicinity of Boston. Amds. '06 ch.463 pt.2 §183. 3§ '08 ch.649, June 13

- b** **Miss.** Allowing all members of family to use mileage issued by railroad; mileage forfeited to railroad if used by other than member of family. 3§ '08 ch.92, Mar.20

- c** **N. D.** Declaring unconst. '07 ch.199 in so far as it requires railroad to sell 1000 mile ticket to be used by purchaser and family at rate lower than others may purchase such tickets. Denies equal protection of laws.

State ex rel. McCue v. Great Northern Ry. Co. 116 N. W. 89 (1908)

State ex rel. McCue v. Minneapolis, St. P. & S. S. M. Ry. Co.

116 N. W. 91 (1908)

State ex rel. McCue v. Northern Pac. Ry. Co. 116 N. W. 92 (1908)

1237

**Passes. Franks**

See also 1365, Street railways

- a** **Ala.** Amdg. '07 p.105 §1: common carrier may issue pass to recently discharged employee going home or seeking other work.

'07 (ex.sess.) p.202, Nov.30

- b** **Mo.** Declaring unconst. R.S. '99 §1085 in so far as requiring railroad to furnish free return transportation to shipper of stock by carload. Deprives of property without due process of law; denies equal protection of laws.

McCully v. Chicago, B. & Q. Ry. Co. 110 S. W. 711 (1908)

George v. Chicago, R. I. & P. Ry. Co. 113 S. W. 1099 (1908)



## TRANSPORTATION

1237

- c N. J. Amdg. '03 ch.257 §40: number of state officers entitled to passes on railroads increased. '08 ch.43, Apr.1
- d N. C. Passenger rate on railroad 2½c, half rate for children; 3c on road less than 100 miles; msdr. to give or receive pass unless authorized by law. Rep. Revisal '05 §2618, '07 ch.216. 8§  
'08 ch.144, Feb.1
- e O. Amdg. '06 p.342 §8, 14, 31 rel. to common carriers: to whom passes may be issued; Railroad Comrs. to fix joint rate where railroads fail to agree; procedure for recovery of damages for injury to freight. 3§  
'08 p.128, Apr.21
- f Okl. Msdr. to violate provision of Const. against passes.  
'08 ch.64 art.1, May 5
- g Or. Corporations seeking right of way must as condition precedent to commencing condemnation proceedings grant free transportation to state officers and county judges and sheriffs; certificate of election or copy in lieu of ticket. 5§  
'07 ch.66, Feb.20  
Referendum demanded, and law rejected by popular vote June 1, 1908.

1238

### Race distinction

*See also 122. Civil rights*

- a Md. Requiring separate seats for white and colored passengers on electric railway running 20 miles without incorporated place. 6§  
'08 ch.248(p.88), Apr.8
- b Okl. Separate cars and waiting rooms for white and colored people to be provided by railroads and street railways. 11§  
'07 ch.15 art.1, Dec.18

1240

### Miscellaneous. Common carriers

- a La. Prohibiting common carrier from disclosing business secrets of shippers to competitors. '08 ch.111, July 1

1244

### Baggage

- a Mass. Amdg. '07 ch.287 §1 rel. to charges for storage of baggage by railroad. '08 ch.504, May 7
- b Miss. Amdg. C.'06 §4068: railroad may charge storage for baggage after 4 [10] days. '08 ch.195, Mar.21

1247

### Loss or damage

- a La. Requiring common carrier to pay claim for damage to freight within 30 days for shipments wholly within state, otherwise 60 days; penalty \$50 to be recovered by consignee. '08 ch.29, June 20
- b La. Amdg. '88 ch.93 rel. to payment for damage to freight at place of delivery: suit may be commenced within 30 days of demand. Rep.'77 ch.37 §12. '08 ch.182, July 3
- c Miss. Amdg. C.'06 §4070: common carrier failing to settle for lost or damaged freight within 90 days liable for \$25 damages [25% of amount recovered]; applies only where claim is \$200 [\$50] or less.  
'08 ch.196, Mar.20

1247

- d O. Amdg. '06 p.342 §8, 14, 31 rel. to common carriers: to whom passes may be issued; Railroad Comrs. to fix joint rate where railroads fail to agree; procedure for recovery of damages for injury to freight. 3§ '08 p.128, Apr.21
- e S. C. Amdg. '03 ch.50 §2: claim for damage to property *or baggage* in possession of common carrier to be paid in 30 [40] days in domestic commerce and 40 [90] days in interstate commerce. '08 ch.489, Feb.26

1249

**Prompt shipment. Demurrage**

- a Mass. Bd. of Railroad Comrs. to investigate freight car service, storage and demurrage and recommend legislation. '08 r.111, May 27
- b Va. Regulating time and manner of adjustment and payment by common carrier of claims for damage to freight and for storage and demurrage. '08 ch.116, Feb.29

1253

**Special commodities**

1254

*Coal. Coke*

- a Okl. Common carrier liable for loss of weight of coal in carriage less natural shrinkage; latter defined; weighing. 7§ '08 ch.24 art.1, May 29

**Roads. Streets,** *see* 2700

1267

**Railways. Car companies. Express.**

Chiefly steam roads but many of the general laws and special provisions include all kinds of railways. *See also* 500, Corporations; 841, 845, Taxation; 2040, Labor.

- a Ala. Amdg. '07 p.117 §31 rel. to violations by common carriers of regulations of rates, service etc.: penalty *not to exceed* \$2000 [\$100 to \$10,000]; *separate offense for each day's violation of order of Railroad Comn.; venue of civil action; act of employee msdr.* '07(ex.sess.)p.23, Nov.23
- b Ala. Party to suit rel. to fairness or rates of common carrier may obtain order to examine books of such common carrier; penalties. 3§ '07(ex.sess.)p.25, Nov.23
- c Ala. Rel. to common carriers: power of Railroad Comn. as to repairs; equipment; uniform accounts; access to books; reports; bulletining late trains; joint rates; special rates; reduction of rates. 15§ '07(ex.sess.)p.29, Nov.23
- d Ala. Amdg. '07 p.135 §5, 29, 35, 41, 52 rel. to Railroad Comn.: employees; proceedings before; rates fixed by deemed prima facie reasonable; enforcement of orders; special counsel. 5§ '07(ex.sess.)p.43, Nov.23
- e La. Amdg. Const. 1898 art.286: rate fixed by Railroad Comn. to remain in force till set aside by courts; penalties; authority of comn. extended. Adopted Apr. 1908. '07 ch.14, Nov.28

## RAILWAYS

1267

- f La. Amdg. Const. 1898 art.288: Legis. may extend authority of Railroad Comn. [on recommendation of comrs.]. Adopted Apr.1908.  
'07 ch.15, Nov.28
- g La. Order of Railroad Comn. to remain in effect till set aside by court; suit to set aside to be commenced in 3 months. 3§  
'08 ch.171, July 3
- h La. Conferring additional powers on Railroad Comn. over railroads, telegraph, telephone and express companies. 3§ '08 ch.199, July 8
- i Miss. Penalty of \$500 for each neglect of common carrier to perform duty required by law; procedure for recovery. '08 ch.81, Mar.17
- j Miss. Railroad Comn. to investigate common carriers as to compliance with laws. '08 ch.82, Mar.17
- k Miss. Requiring Railroad Comr. to visit each county where railroad runs once in year to inquire into violations of law and reasonableness of rates. '08 ch.83, Mar.17
- n Miss. Rel. to Railroad Comn.: biennial report to Legis.; salaries and expenses how paid. '08 ch.84, Mar.17
- p Miss. Compensation of witnesses before Railroad Comn.  
'08 ch.85, Mar.17
- q Miss. Appeals from decisions of Railroad Comn.  
'08 ch.86, Mar.17
- r Miss. Rel. to Railroad Comn.: railroad defined; term company to embrace telegraph, telephone, express and sleeping car corporations: comn. to have supervision of car service associations. '08 ch.87, Mar.17
- s Miss. Salary of clerk of Railroad Comn. \$1800 '08 ch.144, Mar.19

1268

### Corporate organization and power

*See 1267*

- a Va. Authorizing railroad to surrender legis. charter and reincorporate under present Const. and laws. 3§ '08 ch.241, Mar.12

1272

### Consolidation, sale, lease

- a Md. Providing for lease of railroad to connecting line. Adds C. '04 art.23 §265a. '08 ch.126 (p.68), Mar.25
- b N. C. Amdg. Revisal '05 §2567, 2574: merger of competing railroads prohibited. 3§ '08 ch.119, Feb.1
- c S. C. Amdg. C.C. §2034: railroad authorized to sell or lease property or franchise to other railroad. '08 ch.501, Feb.25
- d Va. Authorizing railroad with consent of Corp. Comn. to acquire other railroad not over 25 miles long for cut-off or connecting line. '08 ch.149, Mar.5

1273

### Dissolution. Insolvency

- a N. J. Amdg. '03 ch.257 §87 rel. to dissolution of railroad: if insolvent Treasurer of State to deliver deposit to receiver.  
'08 ch.79, Apr.2

1279

### Stocks, bonds, mortgages

- a Mass. Rel. to computing capital stock of railroad in regard to limit of amount of indebtedness that may be issued. '08 ch.620, June 12
- b Mass. Rel. to rate at which railroad may offer new stock to stockholders. 3§ '08 ch.636, June 13



1280 **Public ownership and aid**

- a **La.** Amdg. Const. 1898 by adding article ratifying '08 ch.179 which authorizes New Orleans to issue \$2,000,000 of bonds for Public Belt Railroad. 10§ Adopted Nov. 1908. '08 ch.179, July 3

1282 **Public aid. Exemptions. Subscription to stock**

- a **Kan.** Enabling townships to issue bonds to aid railroad; referendum; limitations. 4§ '08(ex.sess.) ch.82, Jan.31

1286 **Supervision and regulation,**

*See 1267*

1288 **Construction and maintenance**

- a **La.** Requiring railroad company with repair shop to repair rolling stock in state. 3§ '08 ch.297, July 9
- b **N. C.** Amdg. Revisal '05 §2564: railroad corp. required to commence construction within 3 [2] years of incorp. '08 ch.142, Feb.1
- c **Okl.** Requiring railroad having repair shops to maintain and operate shop in state. 4§ '08 ch.72 art.5, May 26

1289 **Branch roads. Side tracks**

- a **Miss.** Railroad Comn. may require railroad to maintain side tracks, spurs and loops to industrial plant. '08 ch.88, Mar.17

1293 **Motive power**

- a **Md.** Authorizing railroad to change motive power from steam to electricity. Adds C.'04 art.23 §300 a 1. '08 ch.154(p.70), Mar.30

1295 **Location. Right of way**

- a **W. Va.** Amdg. C. §2340: railroad may not condemn both banks of navigable river so as to interfere with competing line; latter may condemn right of way on bank opposite original railroad's main line; railroad may change line to other side of town or village or near enough to be reached by spur. '08 ch.28, Mar.3

1297 **Eminent Domain. Damages**

*See also 382, Eminent domain (general)*

- a **S. C.** Right of steam railroad to condemn land extended to railroad using other power. Adds C.C. §2199a. '08 ch.467, Feb.14

1301 **Traffic regulations**

- a **Miss.** Railroad Comn. may prohibit switching or standing trains in street of municipality. '08 ch.91, Mar.18
- b **Okl.** Extending jurisdiction of Corp. Comn. over railroad connections, union depots and transfer and switching facilities. 3§ '08 ch.18 art.2, May 20

## RAILWAYS

1308 *Train service*

1311 TRAIN BULLETINS

- a S. C. Amdg. C.C. §2170 which requires bulletins of late trains at station *where telegraph operator on duty*: to be changed every 1/4 [1/2] hour; penalty \$10 [\$5] to be recovered by *person aggrieved* [state]. '08 ch.485, Feb.26

1312 *Transfer facilities. Connections*

- a Ga. Amdg. '07 p.72 §7: Railroad Comm. authorized to order making of physical connections by intersecting railroads *or those entering same municipality*. '08 p.67, Aug.17
- b Miss. Railroad Comm. may require parallel railroads to make connections for transfer of freight. '08 ch.89, Mar.21

1313 **Public safety, comfort and order**

1314 **Safety regulations**

*See also 1128, Boilers and engineers*

- a Mass. Torpedoes and other explosives used by railroad to be marked as dangerous. '08 ch.495, May 5

1317 *Crossings*

- a Miss. Railroad Comm. may authorize railroad train to cross other railroad at grade without stopping provided interlocking or derailling devices be installed. '08 ch.90, Mar.17
- b O. Amdg. '04 p.548 §1 rel. to crossings of railroads without *and within* municipality: *jury to determine apportionment of payment for land used*. '08 p.358, May 9
- c O. Amdg. '96 p.315 §2 rel. to installation of safety devices at railroad crossing with other railroad at grade. '08 p.390, May 9

1319 HIGHWAY CROSSING

- a Mass. Rel. to proceedings for abolition of grade crossings: Atty. Gen. may employ civil engineer to examine plans submitted; filing reports of comrs. '08 ch.372, Apr.8
- b Mass. Amdg. '06 ch.463 pt.1 §37, 39 rel. to abolition of grade crossings: auditors to examine amounts of damages awarded and allow only such as are just. '08 ch.390, Apr.11
- c O. Amdg. '04 p.546 §4 rel. to grade crossing of highway and railroad: procedure to obtain permission for construction. '08 p.58, Apr.3
- d Okl. Requiring railroad to construct and maintain crossing at highway. '08 ch.72 art.2, May 11

1320(5) *Employees*

Regulations in interest of *public safety*; for safety of employees *see 2080*

- a Ga. Msdr. for railroad to employ locomotive engineer of less than prescribed experience. '08 p.49, July 23
- b Md. Requiring crew of 6 on freight train of over 30 cars; penalty and enforcement; emp'oyee injured because of violation not deemed to have assumed risk. Adds C.'04 art.23 §300k-p. 68  
'08 ch.724 (p.71), Apr.8

1320(5

- c **Mo.** Declaring unconst. '07 p.332 regulating hours of block system telegraph operators and train dispatchers in so far as it applies to interstate commerce.

State *v.* Missouri Pac. Ry. Co. 111 S. W. 500 (1908)

- d **Tex.** Declaring unconst. '07 ch.41 rel. to number composing train crews. Title insufficient.

Missouri, K. & T. Ry. Co. of Texas *v.* State 113 S. W. 916 (1908)

- e **Wis.** Declaring invalid '07 ch.575 regulating hours of block system operators in so far as it applies to interstate commerce.

State *v.* Chicago, M. & St P. Ry. Co. 117 N. W. 686 (1908)

1321

*Fencing. Cattle guards. Injury to stock*

- a **O.** Amdg. R.S. §3324-26: where railroad fails and owner of land constructs fence, company liable for costs of fence *and atty.'s fees.*

'08 p.59, Apr.3

- b **Okl.** Requiring railroad to fence right of way with hog wire on request of owner who has so fenced other 3 sides of land. 3§

'08 ch.72 art.4, May 26

1322

*Fire guards. Injury by fire*

- a **Va.** Railroad liable for damage by fire occasioned by sparks from locomotives, whether or not originating on right of way or whether spark-arresters used.

'08 ch.269, Mar.13

- b **Va.** Vesting in railroad insurable interest in property on route of railroad operated by it.

'08 ch.392, Mar.14

1326

*Whistles. Locomotive signals*

- a **Ga.** Requiring use of electric headlight of prescribed power and size for locomotives. 3§

'08 p.50, Aug.17

- b **Miss.** Prohibiting backing of locomotive at night without pilot and headlight on rear of tender; penalties. 3§

'08 ch.95, Mar.16

- c **Okl.** Requiring railroad locomotives to be equipped with 1500 candlepower headlights.

'08 ch.72 art.1, Mar.12

1328

**Public comfort regulations**

For labor on railways *see* 2040, Labor

1329

*Cars*

- a **S. C.** Requiring steam railroad to equip windows of passenger cars with cinder deflectors. 3§

'08 ch.474, Feb.25

1332

**Public order. Railway police**

1333

*Injury. Obstruction. Robbery. Stealing*

- a **Ga.** Msdr. to interfere with movement of locomotive or train.

'08 p.51, Aug.17

- b **O.** Penalty for unlawfully removing parts of railroad track or car.

'08 p.464, May 9

1334

*Railway police*

- a **R. I.** Amdg. G.L. ch.107 §1 rel. to revocation of commission of railroad or steamboat police officer appointed by Gov. '08 ch.1555, May 1



## STREET RAILWAYS

1337

### Street railways

Includes suburban and interurban lines

*See also* 500, Corporations; 841, 845, Taxation; 2040, Labor

1338

### Underground and elevated roads

- a O. Authorizing city to grant right of way through public places for elevated railroad or tunnel for railroad; council and company to agree on terms; fare not to exceed 5c; referendum on petition of protest. Adds R.S. §3283 b-d. 3§ '08 p.452, May 9
- b O. Amdg. R.S. §3283 rel. to right of way to elevate tracks of railroad over streets and public places of municipality: appropriation of property; abolition of grade crossing; referendum. Adds §3283a, 3283 subd.1. 3§ '08 p.589, May 22

1339

### Corporate organization and powers

*See* 1337

1342

### Consolidation, sale, lease, contracts

- a S. C. Authorizing electric railway, gas and electric light companies to lease property to like companies. '08 ch.502, Feb.26

1345

### Mail. Express. Freight

- a Mass. Authorizing street railways to transport milk and cream. '08 ch.278, Mar.25

### General supervision, *see* 1337

1353

### Construction

1357

### MOTIVE POWER

- a N. J. Requiring third rail to be protected at crossing; penalty. 3§ '08 ch.139, Apr.9

1359

### Location. Right of way

- a Mass. Providing for temporary location of street railway when bridge over which it runs is being repaired. 5§ '08 ch.266, Mar.24

1361

### EMINENT DOMAIN

- a La. Giving street and interurban electric railways right of expropriation. '08 ch.80, June 30
- b S. C. Right of steam railroad to condemn land extended to railroad using other power. Adds C.C. §2199a. '08 ch.467, Feb.14

1362

### FRANCHISES. LOCATION OF TRACK. EXTENSIONS

*See also* 2628, Franchises (general)

- a Mass. Amdg. '06 ch.516 §7 rel. to change of route of proposed electric railway from that laid out in original application. '08 ch.450, Apr.28
- b Mich. Declaring unconst. '01 ch.238 rel. to construction of street railways and adding §51 to C.L. ch.164 art.2 rel. to railroads. Subject not in title of act amended.  
Ecorse Township v. Jackson, A. A. & D. Ry. 117 N. W. 89 (1908)

1362

- c N. J. Change of route by street railway. 4§ '08 ch.136, Apr.9
- d N. Y. Amdg. railroad law '90 ch.565 §93 rel. to grant of street railway franchise by local authorities. '08 ch.475, May 19
- e O. Amdg. R.S. §3439; '02(ex.sess.)p.20 §30 rel. to street railway franchise: consent of abutting owners not necessary for renewal; referendum vote on ordinance granting or renewing. Adds '02(ex.sess.) p.20 §30a. 3§ '08 p.102, Apr.15

1365

*Fares. Passes*

- a Ala. Authorizing street railway to give free or reduced transportation to police, firemen, sanitary inspectors and school children. '07 (ex.sess.)p.42, Nov.23
- b Mass. Amdg. '06 ch.463 pt.3 §99: street *and elevated* railways required to transport pupils of public day *or evening or private* schools at  $\frac{1}{2}$  fare. '08 ch.530, May 19

1366

TRANSFERS

- a Ala. Street railway authorized to make rules for use of transfers; msdr. for unauthorized person to issue, dispose of or use transfer. 5§ '07(ex.sess.)p.89, Nov.23

1378

**Express**

*See also* 500, Corporations; 841, 845, Taxation, 1345, Street railways

- a Mass. Extending authority of Railroad Comrs. over companies and persons doing express business on railroad. 4§ '08 ch.599, June 8
- b Miss. Urging representatives in Cong. to support bill to establish parcel post. '08 ch.294, Mar.21

1379

*Rates. Discrimination*

- a Miss. Prohibiting express company making charge on prepaid package; penalty. '08 ch.77, Mar.21
- Same. '08 ch.79, Mar.21

1380

*Office*

- a Miss. Railroad Comm. may require express and telegraph companies to maintain offices where public convenience requires. '08 ch.80, Mar.17

1384

**Canals**

*See also* 1800, Navigation. Waterways

- a Ga. Memorializing Cong. for appropriation of \$75,000 for survey of Atlantic and Great Western Canal from Tennessee to Ocmulgee river. '08 p.1039, Aug.15
- b Ill. Amdg. Const. 1870: Ill. and Mich. Canal *or other canal or waterway owned by state* to be sold or leased only on vote of people; *construction of deep waterway from Chicago Sanitary District to Ill. river; issue of \$20,000,000 of bonds for construction; lease of water power developed.* Adopted Nov. 1908. '07(ex.sess.)p.102, Oct.16
- c Ill. Committee to investigate rights of state in certain navigable waters, development of water power and building of deep waterways; to consist of 10 members of Legis. and 5 appointees of Gov; report to Gov. Aug. 1. 1908. '07(ex.sess.) p.103. Oct.16

1384

- d La. Authorizing parish bds. of school directors to donate to U. S. right of way across school lands for canal purposes. '08 ch.14, June 15
- e La. Authorizing bds. of comrs. of drainage districts to donate to U. S. portions of rights of way for canal purposes. '08 ch.19, June 15
- f N. J. Amdg. '77 ch.85 §1 which provides for organization of companies for constructing and operating canals [not to exceed 3 miles in length]. '08 ch.35, Mar.27
- g N. J. Amdg. '77 ch.85 §10 rel. to construction by canal companies: canal not to exceed 250 [100] feet in width, *unless more land required for slopes*. '08 ch.36, Mar.27
- h N. J. Joint legis. committee of 6 to investigate reason for falling off in use of Delaware and Raritan canal; interest of state therein; operation thereof; advisability of legislation to revive its usefulness. '08 p.732, Apr.14
- i N. Y. Amdg. canal law '94 ch.338 §54: advances unaccounted for to division engineer at no time to exceed \$40,000 [\$20,000]. '08 ch.88, Apr.6
- j N. Y. Gov. to appoint special examiner and appraiser of canal lands; term 3 years; salary \$4000; manner of appraisal. Rep. '04 ch.335. 3§ '08 ch.195, Apr.30
- k N. Y. Amdg. '03 ch.147 §4 rel. to examination and appraisal of canal lands. '08 ch.196, Apr.30
- n O. Joint legis. committee of 4 to investigate southern division of Ohio canal and report as to whether appropriations should be continued. '08 p.618, Jan.30
- p Wash. Declaring unconst. '07 ch.158(159)§3 authorizing county of 1st class to aid U. S. govt. in construction of canal. Subject not in title. State ex rel. Potter v. King County 96 P. 155 (1908)

1393

## Bridges. Tunnels

*See also 2700*

- a Mass. Amdg. '06 ch.463 pt.1 §23, 25 rel. to proceedings for alteration of highway *or highway bridge* at railroad crossing. '08 ch.542, May 26
- b Mass. Railroad Comrs. to decide as to maintenance of bridge at crossing of public way and railroad, or used by street railway; enforcement. '08 ch.552, May 27
- c Miss. Amdg. C.'06 §3373 rel. to maintenance of county bridge within municipality. '08 ch.188, Mar.21
- d N. J. Amdg. '92 ch.185 §2 rel. to erection of bridges over navigable streams by county: bond issue not to exceed \$350,000[\$250,000] at interest not to exceed 5% [4½%]. '08 ch.100, Apr.6
- e N. Y. Giving Supt. of Public Works control of bridges built by state on Indian reservations. '08 ch.82, Apr.6
- f O. Amdg. R.S. §2825: expenditure of over \$15,000 for county building or bridge to be submitted at fall, [spring] *or special* election. '08 p.87, Apr.10
- g O. Amdg. R.S. §2825: *vote for county bridge costing \$18,000*. '08 p.456, May 9



**1395 Bridge companies**

- a **Okl.** Prohibiting pooling of bridge contractors and companies. 3§  
'08 ch.21 art.1, May 8

**1396 Bridges on boundaries**

- a **N. J.** Creating comn. of 5, appointed by Gov., to confer with N. Y. comn. as to construction of bridges connecting 2 states; \$5000.  
'08 p.727, Apr.2
- b **N. J.** Gov. to appoint comn. of 3 to confer with Pa. comn. as to acquiring of toll bridges over Delaware river by 2 states. 3§  
'08 p.730, Apr.8

**1411 Telegraph and telephone**

*See also* 320, Crimes against property; 500, Corporations; 841, 845, Taxation; 2040, Labor

- a **La.** Conferring additional powers on Railroad Comn. over railroads, telegraph, telephone and express companies. 3§  
'08 ch.199, July 8
- b **Miss.** Rel. to Railroad Comn.: railroad defined; term company to embrace telegraph, telephone, express and sleeping car corporations; comn. to have supervision of car service associations. '08 ch.87, Mar.17

**1414 Supervision**

**1415 Franchise. Location**

- a **Miss.** Railroad Comn. may require express and telegraph companies to maintain offices where public convenience requires.  
'08 ch.80, Mar.17

**1421 Transmission and delivery. Secrecy**

- a **Ga.** Requiring telegraph company to transmit message impartially and with diligence; message to be delivered within 1 mile of office.  
'08 p.94, Aug.17
- b **La.** Permitting suit against telephone and telegraph companies for error in transmission at place either of sending or of delivery of message.  
'08 ch.20, June 15
- c **Md.** Telegraph company to indicate on telegram time when filed for transmission and when delivered. 3§ '08 ch.280(p.72), Apr.8
- d **Miss.** Requiring telegraph and telephone companies to make speedy transmission and delivery of messages within state; penalty.  
'08 ch.78, Mar.17
- e **Miss.** Requiring telegraph and telephone companies to transmit messages promptly and correctly and to deliver promptly; penalty.  
'08 ch.76, Mar.20
- f **Va.** Suit against telegraph or telephone company for failure to transmit message may be brought in place either of sending or of destination.  
'08 ch.198, Mar.12

1422 Commerce and industry (general)

1425 Weights and measures

- a O. Amdg. R.S. §7067 rel. to false weights and measures: unlawful knowingly to *buy or sell by; false graduations on scale indicating weight and price*; penalty \$50 [or 30 days]. '08 p.132, Apr.22

1426 Sealers. Public scales. Standards

- a N. J. Establishing uniform standard of weights and measures and punishing fraudulent use. Sundry acts repealed. 31§  
'08 ch.259, Apr.14
- b O. Amdg. R.S. §1783 rel. to city and village sealers of weights and measures: appointment, oath, bond. '08 p.474, May 9
- c Okl. Providing for county weighers and public scales. 11§  
'08 ch.85 art.1, May 29

1427 Agricultural products

1429 Fruits

- a N. Y. Fixing size of barrel for apples, pears or quinces. Adds §188 to agric. law '93 ch.338. '08 ch.486, May 23

1441 Coal. Coke. Charcoal

- a Mass. Amdg. R.L. ch.57 §86, 87: coke and coal sold by *weight or measure* to be marked with name of person putting same up and with quantity or weight contained. '08 ch.205, Mar.14
- b Mass. Amdg. R.L. ch.57 §88 rel. to certificate of public weighing of coke and coal. '08 ch.304, Mar.27
- c Miss. Ton of coal 2000 lb; box or barrel 200 lb. Adds §5070a to C.'06. '08 ch.206, Mar.20
- d R. I. Amdg. G.L. ch.167 §23, 24: coal in quantities of over 100 lb to be sold by weight; ton 2000 lb; in less quantities by basket or measure. '08 ch.1563, May 5

1449 Oysters

- a La. Standard measure for oysters arriving at city of over 50,000. Amds. R.S. §3925; rep.'88 ch.98. 4§ '08 ch.92, July 1

1464 Adulterations and imitations. Branding. Inspection

*See also 956, Adulterations liable to affect public health*

1466 Adulteration. Inspection

1472 Commercial feed for stock

- a Kan. Amdg. '07 ch.407 §1, 5, 6, 11 rel. to feeding stuffs: substances included and excluded from regulation. 5§ '08(ex.sess.)ch.75, Jan.31
- b Miss. Regulating sale, inspection and analysis of commercial feeding stuff. 14§ '08 ch.107, Mar.21
- c O. Amdg. '04 p.395 §1: package of commercial feed stuffs to have label showing manufacturer, shipper, chemical analysis *and products of which made*. '08 p.81, Apr.9

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1472

- d **Va.** Creating Dairy and Food Comr. in Dept. of Agric. and Immigration: appointed by Gov. and Gen. Assembly, term 4 years; salary \$2500; standards of foods, drinks and commercial feeding stuffs; enforcement. 17§ '08 ch.188, Mar.11

1473

## *Cotton seed meal and hulls*

- a **Ala.** Regulating sale of cotton seed meal; analysis to be attached to bags; standard grades; certificate of State Chemist; containing ammonia; penalties. 5§ '07(ex.sess.)p.20, Nov.22

1474

## *Fertilizers*

- a **O.** Amdg. R.S. §4446a-b, d-i, 7002 rel. to sale of commercial fertilizers. 9§ '08 p.343, May 9
- b **Va.** Regulating sale of commercial fertilizers. Amds. '90 ch.105. 17§ '08 ch.72, Feb.25

1476

## *Gold and silver ware*

- a **N. J.** Prohibiting stamping or selling gold or silver as of greater fineness than it is; standards; inferiority to be indicated on goods; penalty. 5§ '08 ch.188, Apr.13

1490

## *Oil. Paint. Lead*

*See also* 1493, Petroleum products

- a **Mass.** Unlawful to sell misbranded paint, turpentine or linseed oil; enforcement. 6§ '08 ch.531, May 19
- b **O.** Amdg. '96 p.417 §1 rel. to adulteration of flaxseed or linseed oil: standard. '08 p.64, Apr.7
- c **O.** White lead, paint etc. to be labeled with name of manufacturer or distributor, percentage of ingredients, and amount or weight of contents. 9§ '08 p.118, Apr.15

1492

## *Insecticides*

- a **N. Y.** Amdg. agric. law '93 ch.338 §110, 111, 113: insecticides and fungicides required to be labeled with ingredients; analysis; certificate of Comr. of Agric. Adds §113a; rep. §114. 5§ '08 ch.279, May 18

1493

## *Petroleum products*

- a **O.** Requiring labeling of containers of gasoline, benzine and naphtha. 3§ '08 p.245, Apr.30
- b **O.** Gov. and Senate to appoint State Inspector of Oils; term 2 years; salary \$3500; to inspect oils, gasoline and naphtha; deputies; annual report to Gov.; standards; tests; penalties. Rep. R.S. §394-96. 15§ '08 p.513, May 9
- c **Okla.** Gasoline to be kept in red receptacles labeled "gasoline." '08 ch.61 art.1, May 14
- d **R. I.** Amdg. G.L. ch.144 §3 rel. to inspection, sale and keeping of petroleum products: not to apply where sold *or kept* for exportation without state *or for mechanical or chemical purposes or for lighting or heating under blow pipe system.* '08 ch.1587, May 26



1500 Marks, labels etc.

- a N. Y. Amdg. Pen.C. §364 rel. to offenses against trade-marks.  
'08 ch.427, May 20

1501 Bottles, cans and other receptacles

- a Md. Msdr. to use in business way receptacle bearing name of another dealer in bread, cakes and pies. Adds. S. '04 art.27 §315a.  
'08 ch.368(p.84), Apr.13
- b Mass. Amdg. '06 ch.116 §3: dealer in milk may use vessels bearing name of another with written permission duly registered. Rep. §4.  
'08 ch.435, Apr.22
- c O. Declaring unconst. R.S. §4364 subd.42-45 prohibiting under penalty use or sale of marked bottles without consent of owner. Class legislation.  
State v. Schmuck 83 N. E. 797 (1908)

1503 Union labels

- a O. Amdg. R.S. §4364 subd. 53a-b rel. to unlawful use of union label by person, *partnership or corp.*  
'08 p.482, May 9

Society badges and insignia, *see* 583(5)

1505 Associations. Exchanges. Speculation

1507 Speculation. Bucket shops

*See also* 883, Gambling

- a Cal. Amdg. Const. 1879 art.4 §26: contracts rel. to stock speculation void. Adopted Nov. 1908.  
'07 p.1360, Mar.14
- b La. Memorializing Cong. to correct abuses of trading in cotton futures.  
'08 ch.312, July 9
- c Miss. Prohibiting keeping of bucket shops; contract for sale of certain commodities, stocks and bonds where actual delivery not intended void; evidence. 13§  
'08 ch.118, Feb.15
- d N. Y. Defining and prohibiting bucket shops. Adds §355a-e to Pen.C. 5§  
'08 ch.458, May 21
- e Okl. Prohibiting bucket shops. 13§  
'08 ch.8 art.1, May 5
- f R. I. Prohibiting bucket shops. 4§  
'08 ch.1565, May 6
- g Va. Prohibiting bucket shops. 5§  
'08 ch.344, Mar.14

1507(5) Commercial agencies

- a Okl. Msdr. for commercial agency to furnish false rating of customer to merchant; person rated to be sent copy; merchant required to show rating list to person rated. 4§  
'08 ch.75 art.2, May 26

1508 Warehouses. Markets

1510 Warehouses

- a N. C. Amdg. Revisal '05 §3030: warehouseman to give bond of surety company *or individual with sufficient sureties.*  
'08 ch.56, Jan.31
- b Okl. Regulating business of warehousemen receiving cotton or broom corn. 11§  
'08 ch.84 art.1, May 29
- c S. C. Fee for charter for cotton holding and storage associations \$25.  
'08 ch.503, Feb.14

**1512** *Payment of charges. Sale of goods*

- a **Md.** Rel. to enforcement of warehouseman's lien on spirituous liquors. Adds C.'04 art.14 §13-20. 8§ '08 ch.548(p.9), Apr.8

**1513** *Warehouse receipts*

- a **La.** Uniform law of warehouse receipts. 60§ '08 ch.221, July 8
- b **Md.** Amdg. C.'04 art.14 §6: warehouseman in proceeding to enforce lien may deliver goods to purchaser without production of receipt. '08 ch.244(p.7), Apr.1
- c **Md.** Amdg. C.'04 art.27 §119 which prohibits surrender of goods by warehouseman without production of receipt: exception when sold to enforce warehouseman's lien. '08 ch.319(p.80), Apr. 8
- d **O.** Uniform warehouse receipts law. 59§ '08 p.400, May 9
- e **R. I.** Uniform law of warehouse receipts. 60§ '08 ch.1549, Apr.30
- f **Va.** Warehouse receipts. 59§ '08 ch.290, Mar.14

**1515** *Grain warehouses and inspection*

**1517** *Inspection*

- a **Mo.** Declaring unconst. '07 p.285 rel. to state inspection of grain. Invalid delegation of legis. power. Merchants' Exchange v. Knott 111 S. W. 565 (1908)

**1520** *Tobacco warehouses*

- a **Ky.** Permitting warehousemen to commingle tobacco of like grades. 5§ '08 ch.18, Mar.25

**1523** *Inspection*

- a **Md.** Generally amdg. C.'04 art.48 rel. to inspection of tobacco. 10§ '08 ch.9 (p.158), Feb.18

**1524** *State warehouse*

- a **Md.** Providing for building of new state tobacco warehouse in Baltimore under supervision of designated comm. 6§ '08 ch.75 (p.161), Mar.18  
Amended. '08 ch.231 (p.164), Apr.

**1528** *Public markets*

- a **N. J.** Bd. of public works of city authorized to pass ordinances regulating buildings, disposition of garbage, markets; penalties for violations. '08 ch.68, Apr.2

**1532** *Regulation and licensing of trades and occupations*

- a **Mass.** City or town may permit use of highway by lunch wagon; license fee not less than \$50. '08 ch.360, Apr.4
- b **N. J.** Providing for licensing of junk dealers and distributors of advertisements by town. '08 ch.27, Mar.25
- c **N. J.** Amdg. '05 ch.197 §1 rel. to licensing of occupations by municipality: penalty for violation 90 days or \$100. '08 ch.285, Apr.15
- d **Va.** Amdg. '03 ch.148 §121 rel. to licensing photographers: occupation defined; penalty; amateurs excepted. '08 ch.226, Mar.12

**1534 Architects**

- a **N. J.** Amdg. '02 ch.29 §15 rel. to regulation of practice of architecture: expenses of bd., *including those for prosecution for violations of act*, to be paid from fees. '08 ch.128, Apr.9

**1536 Accountants**

- a **Ga.** Establishing Bd. for Examination of Accountants: 3 members, appointed by Gov., term 3 years; examination and certification of public accountants. 5§ '08 p.86, Aug.17
- b **La.** Establishing State Bd. of Accountants: 3 members, appointed by Gov., term 6 years; examination and certification of candidates; unauthorized use of C.P.A. msdr. 8§ '08 ch.125, July 2
- c **O.** Establishing State Bd. of Accountancy; 3 members, practical accountants, appointed by Gov.; term 3 years; \$5 per diem; exchange with other states and countries; unauthorized use of C.P.A. prohibited. 9§ '08 p.332, May 9

**1538 Auctions and auctioneers**

- a **La.** Amdg. R.S. §140 rel. to bonds of auctioneers: to be filed with State Auditor and tested by district atty. '08 ch.45, June 20

**Chiropody, see 948(5)**

**1546 Cotton**

- a **La.** Comr. of Agric. to fix standard for grades of cotton; on request to appoint expert classifiers. '08 ch.212, July 8
- b **Miss.** Public ginnerers to mark and keep record of cotton baled; public weighers to keep record of marks on cotton weighed. '08 ch.132, Mar. 21
- c **Okl.** Requiring ginnerers to brand and number each bale of cotton ginned. 4§ '08 ch.40 art.1, Apr.25
- d **S. C.** Amdg. '05 ch.459 §2 rel. to license to traffic in seed cotton: not to be issued to person convicted of infamous crime. '08 ch.518, Feb.26

**Dentistry, see 948**

**Embalming and undertaking, see 1051**

**1556 Engineering**

- a **La.** Creating Bd. of Engineering Examiners: 5 members appointed by Gov.; term 6 years; to license surveyors and civil engineers; regulations. 13§ '08 ch.308, July 9

**1560 Hawkers and peddlers**

- a **Mass.** License granted by Sec. of Commonwealth to peddler may be revoked on conviction of licensee of crime Sec. considers warranting revocation. '08 ch.208, Mar.14
- b **U.** Declaring unconst. C.L.'07 §1710x, 1710x subd.1 requiring license to peddle certain goods not manufactured in state. Interferes with interstate commerce; not within police power; denies equal protection of laws. State v. Bayer 97 P. 129 (1908)



Law, *see* 591

Medicine, *see* 944

Pharmacy, *see* 949

1581 Real estate dealers

- a La. Requiring bond of \$5000 from real estate agent in city of 100,000. '08 ch.42, June 20

1588 Veterinary practice

- a Ga. Creating State Bd. of Veterinary Examiners: 5 members, appointed by Gov., term 5 years; examination of candidates; license to practice required. 8§ '08 p.88, Aug.14
- b Kan. Amdg. '07 ch.388 §1, 4, 6, 12 rel. to regulation of practice of veterinary surgery: registered veterinarians to pay \$1 per year to veterinary fund; sec. of State Bd. to receive \$15 compensation and \$10 office rent per month. 5§ '08 (ex.sess.) ch.74, Jan.31
- c La. Creating State Bd. of Veterinary Examiners: 4 members appointed by Gov.; term 4 years; examination and licensing of veterinarians; penalties; practising defined. 19§ '08 ch.202, July 8
- d Va. Amdg. C. §1753a subd.3 rel. to regulation of practice of veterinary medicine, surgery *or* dentistry. '08 ch.386, Mar.14

1590 Miscellaneous trade regulations

1593 Discrimination

*See also* 589, Combinations and monopolies; 1204, Transportation and communication; 1379, Express; 1742, Insurance

- a La. Prohibiting unfair commercial discrimination between different localities; enforcement. '08 ch.128, July 2

1596 Legal holidays. Public holidays

- a Cal. Amdg. C.C. §7: Gov. authorized to appoint special holidays. '07 (ex.sess.) ch.5, Nov.23
- b Cal. Amdg. P.C. §10: Gov. authorized to appoint special holidays. '07 (ex.sess.) ch.6, Nov.23
- c Cal. Amdg. C.C.P. §10: Gov. authorized to appoint special holidays. '07 (ex.sess.) ch.7, Nov.23
- d Cal. Amdg. C.C.P. §135: business of courts how affected by special holiday. '07 (ex.sess.) ch.9, Nov.23
- e Cal. Declaring unconst. '07 (ex. sess.) ch.9 providing that courts be open on special holiday except for action on contract for direct payment of money. Special legislation.  
Diepenbrock *v.* Superior Court 95 P. 1121 (1908)
- f Md. Amdg. C.'04 art.13 §9 rel. to legal holidays: Defenders' day Sept. 12 and Columbus day Oct. 12 added. '08 ch.181 (p.7), Apr.1
- g R. I. Establishing May 4 as R. I. Independence day; observance. 4§ '08 ch.1591, May 26

## COMMERCE AND INDUSTRY

### 1598 *Arbor and Bird day*

- a N. J. Gov. may designate day for Arbor day either in April or May. '08 p.729, Apr.8
- b N. J. Designating 1st Friday of May as Arbor day; school exercises. '08 ch.187, Apr.13

### 1608 *Independence day*

- a Mass. Amdg. R.L.ch.25 §18: town may appropriate money for celebration of Fourth of July at *any town* [annual] meeting. '08 ch.91, Feb.17

### 1612 *Labor day*

- a Okl. Labor day, 1st Monday of Sept., legal holiday. '08 ch.53 art.5, May 23

### 1620 *Memorial day*

- a N. J. Amdg. '95 ch.150 §1: governing body of township, town, *village* or borough may appropriate \$100 for observance of Decoration day. '08 ch.22, Mar.24
- b O. County comrs. may appropriate not to exceed \$25 to each G.A.R. post to defray expenses of Memorial day. '08 p.320, May 9

### 1628 *Trading stamps*

- a N. Y. Trading stamps not to be issued without consent of firm responsible for redemption. Adds §384q subd.4 to Pen.C.; subd.4, 5 renumbered as 5, 6. '08 ch.428, May 20

## 1630 **Encouragement of industries**

### 1633 **Bonus. Exemptions. Bounty**

*See also* 810, Exemptions from general property tax; 1282, Railroads; 1350, Street railways

### 1635 *Beet sugar and sugar beet*

- a N. Y. Rep. agric. law '93 ch.338 art.5, by rep. '05 ch.759, which provided for beet sugar bounty. '08 ch.215, May 6

### 1662 **Expositions**

*See also* 1835, Fairs

- a Cal. Amdg. Const. 1879 art.12 §3: provisions as to liability of stockholders not to apply to those of international exposition companies in state. Adopted Nov. 1908. '07 p.1365, Mar.14

### *Alaska-Yukon-Pacific Exposition*

- b N. C. Indorsing Alaska-Yukon-Pacific Exposition; Gov. to appoint comm. of 10 to represent N. C. '08 p.157, Jan.31

1675                      **Resources and attractions. Immigration**

- a     **La.** Amdg. '04 ch.150 rel. to encouragement of immigration: plans of police jury of parish to be approved by *State Bd.* [Comr.] of Agric. and Immigration; state to pay amount equal to that raised by parish not to exceed \$100 [\$500]. '08 ch.143, July 2
- b     **Md.** Amdg. C.'04 art.45a §2, 9 rel. to Bd. of Immigration Comrs.: salary of members, other than State Supt., \$500; to meet *monthly* [quarterly]. '08 ch.382 (p.157), Apr.8
- c     **N. Y.** Establishing comn. of 9, appointed by Gov., to inquire into condition and industrial opportunities of aliens in state; \$10,000. '08 ch.210, May 6
- d     **N. Y.** Amdg. insanity law '96 ch.545 §18 rel. to duties of bd. of alienists for examination of mentally defective immigrants. '08 ch.213, May 6

1679                      **Banking**

Banks of deposit or two or more kinds of banking institutions. *See also* 500, Corporations; 843, Taxation of banking institutions

- a     **Cal.** Joint legis. committee of 6 to make gen. investigation of banking laws; report with recommendations to next Legis.; \$5000. '07 (ex.sess.) p.24, Nov.23
- b     **Ill.** Amdg. '87 p.89 §4, 5, 10, 11 rel. to state banks. 5§. Adopted Nov. 1908. '07 p.52, June 3
- c     **Mass.** Firms and companies receiving deposits for tickets for transportation or for transmission of money to or from foreign countries subject to inspection by Bank Comr. for determining bond to be given. '08 ch.493, May 5
- d     **N. Y.** Amdg. '07 ch.185 §1 rel. to firms selling tickets to or from foreign countries taking deposits of money for transmission: application; bond. '08 ch.479, May 23
- e     **O.** Corp. or persons engaged in selling steamship or railroad tickets to or from foreign countries or receiving deposits for transmission to foreign countries to file bond of \$5000; trans-Atlantic steamship companies, banks and express companies excepted. 6§ '08 p.266, May 1
- f     **O.** Organization and inspection of banks. Rep. sundry acts. 120§ '08 p.269, May 5
- g     **Okl.** Creating State Banking Bd. to consist of Gov., Lieut. Gov., president of Bd. of Agric., State Treasurer and State Auditor; depositors' guaranty fund established; bd. to levy assmt. of 1% on average daily deposits of bank; special assmts.; new banks to pay 3% of capital; national banks may avail themselves of act; procedure when bank insolvent; gen. regulations; penalties for officers' violations. 19§ '07 ch.6 art.2, Dec.17
- h     **Okl.** Amdg. S.'03 §242, '07 p.145 §4 rel. to banks: interest; loans on mortgages; national bank availing itself of depositors' guaranty fund. '08 ch.6 art.3, Feb.12



## BANKING

1679

- i **Okl.** Rel. to banks: organization and incorp.; powers; liabilities; State Banking Bd. created, to consist of Gov., Lieut. Gov., president of Bd. of Agric., State Treasurer and State Auditor; bd. to have supervision of guaranty fund for protection of depositors; tax for fund; Gov. and Senate to appoint Bank Comr., term 4 years, salary \$2500, duties. 60§ '08 ch.6 art.1, May 26
- j **R. I.** Banking law. 89§ '08 ch.1590, May 26
- k **W. Va.** Amdg. C. ch.54 §78 subd.V, Va-b rel. to supervision of banking *and similar* companies. 3§ '08 ch.30, Feb.26

1680

### *Inspection. Reports. Departments*

- a **Kan.** Bank Comr. authorized to appoint assistant at \$2000, 4 additional deputy examiners at \$1800; banks to be examined twice per year; reports. 3§ '08(ex.sess.) ch.13, Feb.1
- b **La.** Providing clerical force for Examiner of Banks; traveling expenses of office. '08 ch.304, July 9
- c **Mass.** Rel. to contents and number of copies to be printed of report of Bank Comr. '08 ch.523, May 15
- d **Miss.** Amdg. C.'06 §256: banks *and branches* to report to Auditor of Public Accounts quarterly. '08 ch.111, Mar.5
- e **Miss.** Capital of bank or trust company at least \$10,000 in place under 500, \$15,000 in place over 500; must be all paid in; quarterly examination books and securities; certification to Auditor of Public Accounts. 3§ '08 ch.110, Mar.19
- f **N. Y.** Amdg. banking law '92 ch.689 §5: 3d deputy supt. of banking created. '08 ch.57, Mar.23
- g **N. Y.** Official acts of Supt. of Banks and details of dept. business to be made public. Adds §39b to banking law '92 ch.689. '08 ch.158, Apr.27

1683

### Branches

- a **N. Y.** Amdg. banking law '92 ch.689 §89: bank to have excess capital of \$100,000 to open branch, \$50,000 to maintain branch heretofore opened. '08 ch.156, Apr.27

1684

### Capital

- a **Kan.** Amdg. G.S.'01 §408 rel. to state banks: name selected to be approved by Bank Comr.; capital graded according to population. '08 (ex.sess.) ch.15, Jan.31
- b **Miss.** Capital of bank or trust company at least \$10,000 in place under 500, \$15,000 in place over 500; must be all paid in; quarterly examination books and securities; certification to Auditor of Public Accounts. 3§ '08 ch.110, Mar.19
- c **Va.** Bank to have minimum capital of \$10,000. '08 ch.207, Mar.12

1685

### Clearing houses

- a **Miss.** Authorizing banking institutions to establish clearing houses. '08 ch.112, Mar.20

1687

**Dissolution. Insolvency**

*See also* 523, Corporations

- a **Kan.** Amdg. G.S.'01 §434 rel. to insolvency of bank: *Bank Comr.* [District Court at instance of Atty. Gen.] to appoint receiver; qualifications and duties of latter. '08 (ex.sess.) ch.14, Jan.31
- b **La.** Msdr. to circulate false report rel. to financial condition of bank. '08 ch.251, July 8
- c **N. Y.** Amdg. banking law '92 ch.689 §17, 18 rel. to Supt. of Banks: authority as to impairment of capital of bank; to proceed against, *take possession of and liquidate* delinquent banks and individual bankers. Adds §17a; rep. §127, 196h. 4§ '08 ch.143, Apr.20

1688

**Deposits**

For receiving deposits when insolvent, *see* 1687

- a **La.** Deposit in bank or safe deposit company in name of 2 persons may be withdrawn by either or survivor. '08 ch.188, July 6
- b **La.** Bank Examiner to report old uncalled for deposits in bank to Auditor of State; latter to deposit same in name of state. '08 ch.288, July 9
- c **N. J.** Bank not liable to depositor for forged or raised check unless notified within 1 year after return to depositor. '08 ch.215, Apr.13
- d **Va.** Amdg. '06 ch.132 §1: bank authorized to retain money of deceased 2 weeks [1 month] after notice of death. '08 ch.275, Mar.13

1691

**Loans. Investments**

- a **N. Y.** Directors of banking corp. to hold monthly meetings; statement of securities held and loans made to be submitted at each meeting. Adds §39a to banking law '92 ch.689. '08 ch.155, Apr.27
- b **N. Y.** Amdg. banking law '92 ch.689 §25 rel. to restrictions on loans by banking corp. '08 ch.169, Apr.28
- c **O.** Authorizing saving societies, savings and loan associations, safe deposit and trust companies to loan money on first mortgage bonds of certain Great Lakes steamship companies; retirement of bonds insurance of property. Adds R.S. §3821aa. '08 p.395, May 9

1692

**Name. Domicile**

- a **Kan.** Amdg. G.S.'01 §408 rel. to state banks: name selected to be approved by Bank Comr.; capital graded according to population. '08 (ex.sess.) ch.15, Jan.31

1693

**Officers. Meetings**

- a **N. Y.** Amdg. banking law '92 ch.689 §50, 51: director of bank not to *hypothecate* or cease to be owner of required amount of stock. '08 ch.119, Apr.13
- b **N. Y.** Amdg. Pen.C. §595 rel. to misconduct of officer of banking corp. as to loans and certificates of deposit. '08 ch.133, Apr.16  
Amended. '08 ch.157, Apr.27
- c **N. Y.** Directors of banking corp. to hold monthly meetings; statement of securities held and loans made to be submitted at each meeting. Adds §39a to banking law '92 ch.689. '08 ch.155, Apr.27

## 1695 Reserve. Surplus

- a N. Y. Amdg. banking law '92 ch.689 §44 rel. to amount and deposit of money reserve of bank. '08 ch.151, Apr.27

## 1698 Trust and safe deposit companies

- a Md. Amdg. C.'04 art.23 §99 rel. to publication of warning to foreign trust and fidelity corp. transacting business without making deposit; penalty. '08 ch.385 (p.64), Apr.8
- b Mass. Amdg. R.L. ch.116 §18: appointment of trust company as conservator of property of aged person authorized. '08 ch.116, Feb.25
- c Mass. Amdg. R.L. ch.116 §18: trust company may be appointed conservator of property of person incapacitated by age *or mental weakness*. '08 ch.505, May 8
- d Mass. "An act rel. to trust companies." Amds. R.L. ch.14 §35, ch.116 §36; '02 ch.355 §2, '07 ch.319 §1. 14§ '08 ch.520, May 14
- e N. Y. Amdg. banking law '92 ch.689 §210: safe deposit company with capital of \$100,000 authorized to have branch on written approval of Supt. of Banks. '08 ch.122, Apr.13
- f N. Y. Amdg. banking law '92 ch.689 §156: trust co. to have written approval of Supt. of Banks and \$100,000 in excess of required capital to maintain branch; penalty. '08 ch.194, Apr.30

## 1701 Deposits

- a La. Deposit in bank or safe deposit company in name of 2 persons may be withdrawn by either or survivor. '08 ch.188, July 6

## 1703 Investments. Reserves

- a N. Y. Amdg. banking law '92 ch.689 §159 rel. to investments of trust company: stocks or bonds not to be valued in report to Supt. of Banks at higher than investment value as determined by amortization; not to include over 10% of stock of other moneyed corp.; exception. '08 ch.121, Apr.13
- b N. Y. Amdg. banking law '92 ch.689 §164 rel. to character of money reserve of trust company. '08 ch.152, Apr.27

## 1705 Officers

- a N. Y. Amdg. banking law '92 ch.689 §161: director of trust company not to *hypothecate* or cease to be owner of required amount of stock. '08 ch.120, Apr.13

## 1708 Savings banks

- a Mass. Codifying and revising laws rel. to savings banks. Rep. sundry acts. 71§ '08 ch.590, June 8
- b N. Y. Amdg. banking law '92 ch.689 §40 rel. to incorp. of bank: notice of intention to be published and sent to banks in city or town; certificate not to be filed unless Supt. of Banks certify as to being in proper form; Supt. of Banks may refuse certificate of authorization if establishment of bank inexpedient. Renumbers §41-44 as 44-47; adds §41-43. 5§ '08 ch.125, Apr.13



1713 **Investments. Reserves**

- a N. J. Amdg. '06 ch.195 §36 rel. to reserve fund of savings bank: may be deposited in national bank located in N. Y. or Pa. '08 ch.203, Apr.13
- b N. Y. Amdg. banking law '92 ch.689 §20 rel. to report of savings bank as to stock *or bond* investments: dates of purchase and maturity, stated rate of interest and investment value to be given; investment value not to be higher than amortized value. '08 ch.123, Apr.13
- c N. Y. Amdg. banking law '92 ch.689 §123: authorizing savings bank to deduct from profits fund to amortize premiums paid on securities. '08 ch.124, Apr.13
- d N. Y. Amdg. banking law '92 ch.689 §122: savings bank not to borrow money or pledge securities without written approval of Supt. of Banks and vote of majority of trustees. '08 ch.154, Apr.27

1714 **Officers**

- a N. J. Amdg. '06 ch.195 §2, 17 rel. to savings banks: *majority* [ $\frac{3}{4}$ ] of organizers and of managers to be residents of county. '08 ch.39, Mar.30
- b N. J. Savings bank may pension employee over 70 having been in employ for 30 years; 50% of salary at time of retirement. '08 ch.286, Apr.15
- c N. Y. Amdg. banking law '92 ch.689 §107 rel. to oaths of trustees of savings banks. '08 ch.153, Apr.27

1718 **Building and loan associations**

The names of these organizations vary somewhat but the powers and regulations do not depend on the name. The ordinary phrase is building and loan associations, but they are elsewhere called savings and loan associations, co-operative loan associations, etc., and in Massachusetts co-operative banks.

- a O. Organization, regulation and inspection of building and loan and savings associations. Rep. sundry acts. 49§ '08 p.528, May 11

1722 **Dissolution. Insolvency**

- a N. J. Trustees appointed to wind up affairs of building and loan association may require attendance of witnesses, giving of testimony and delivery of effects. 3§ '08 ch.195, Apr.13

1723 **Foreign associations**

- a N. Y. Amdg. Pen.C. §593 rel. to liability of agent of unauthorized foreign building, loan or investment corp. '08 ch.118, Apr.13

1725 **Officers**

- a N. J. Amdg. '03 ch.213 §8: reelection of auditor of building and loan association authorized. '08 ch.73, Apr.2

1732

## Insurance

*See also* 500, Corporations; 844, Taxation of insurance companies

- a **La.** Organization of insurance companies on stock plan: purposes; capital. '08 ch.203, July 8
- b **Va.** Amdg. '06 ch.112, ch.6 §2, ch.8 §28: health, casualty and guaranty companies not to hazard over 20% [10%] on paid-up capital and surplus on single risk; guaranty company not to incur obligation for single person or corp. to exceed 1/5 [1/10] of capital and surplus. '08 ch.234, Mar.12
- c **Va.** Generally amdg. '06 ch.112 rel. to insurance. 12§  
'08 ch.236, Mar.12

1733

*State departments*

- a **R. I.** Additional annual allowance of \$300 for clerical help in office of Insurance Comr. '08 ch.1559, May 1
- b **R. I.** Salary of State Auditor \$2500; of Insurance Comr. \$1500; both inclusive of fees. 3§ '08 ch.1571, May 13
- c **S. C.** Creating Insurance Comr.: elected by Legis., term 2 years, salary \$2500; regulation of insurance companies. 12§  
'08 ch.434, Feb.24

1734

*Examination. Report*

- a **Md.** Examiner for Insurance Dept.; salary \$1500. Adds C.'04 art.23 §159a. '08 ch.553 (p.65), Apr.15
- b **O.** Amdg. R.S. §3603 rel. to reports of life insurance company: method of calculating reserve; statement of compliance with law; exhibit of policy obligations. '08 p.182, Apr.22

1735

*Government insurance*

- a **Minn.** Submitting amdt. to Const. 1857 art.9 by adding new section: state insurance for loss to crops from hail and cyclone; tax on land listed by owners; fund; action by Legis. authorized. Rejected Nov. 1908. '07 ch.479, Apr.25

1736

**Agents**

- a **La.** Authorizing fire insurance agent to divide commission with agents of other states. '08 ch.198, July 8
- b **Mass.** Amdg. '07 ch.576 §93 ¶1 rel. to expiration and renewal of license of agent of foreign insurance company. '08 ch.170, Mar.5
- c **O.** Person soliciting application for life insurance deemed agent of company not of assured. '08 p.175, Apr.22

1741

**Deposit of security. Reserve**

- a **La.** Insurance company to give bond for \$20,000 for prompt payment of claims; fraternal, surety and plate glass companies excepted. '08 ch.172, July 3
- b **R. I.** Amdg. G.L. ch.181 §17, 18 rel. to deposit of securities with Gen. Treasurer by insurance companies. '08 ch.1552, Apr.30
- c **S. C.** Rel. to deposit of securities by insurance company: income; change; return. '08 ch.507, Feb.18
- d **S. C.** Requiring domestic insurance companies to deposit \$10,000 of securities; exceptions. '08 ch.508, Feb.22

1742

### Discrimination

- a **La.** Msdr. to discriminate between policyholders of life insurance company. '08 ch.210, July 8
- b **Mass.** Prohibiting discrimination or rebates of premiums by insurance companies other than life. 4§ '08 ch.511, May 12
- c **O.** Amdg. '89 p.220 §1 rel. to giving rebates by life insurance company *or officer*: what constitutes. '08 p.183, Apr.22

1747

### Investments

- a **N. Y.** Amdg. insurance law '92 ch.690 §100: life insurance company authorized to enter into agreement for protection of securities with approval of Supt. of Insurance; may accept corporate stock and bonds pursuant to agreement; disposal of latter if below standard. '08 ch.9, Feb.28
- b **O.** Amdg. R.S. §3598 rel. to investments of accumulations of domestic life insurance company: may be made in mortgages on leasehold estates for 99 years renewable forever; methods of computing value of policy on which loan is made. '08 p.180, Apr.22

1750

### Officers

- a **Mass.** Amdg. '07 ch.576 §44 ¶3 rel. to qualifications and duties of officers of insurance company. '08 ch.471, May 1

1752

### Policies

- a **Mass.** Amdg. '07 ch.576 §26: assistant sec. of insurance company authorized to sign policy. '08 ch.473, May 1

1754

### Life and accident

- a **La.** Life insurance company to deposit \$100,000 of securities; if stock, capital to be paid up; 200 persons for mutual; exception as to company already organized. Rep. '06 ch.99. 5§ '08 ch.169, July 3
- b **N. Y.** Amdg. insurance law '92 ch.690 §60: msdr. for life insurance company or agent to make misrepresentation to person insured in other company to induce lapse of insurance. '08 ch.347, May 19
- c **O.** Domestic life insurance company to obtain voucher for expenditure of \$100 or more; itemized statement; for legis. work, penalty. '08 p.177, Apr.22
- d **O.** Prohibiting misrepresentation of financial standing of life insurance company by company or agents. 3§ '08 p.177, Apr.22
- e **R. I.** Insurance commissioner to make annual valuation of outstanding policies of life insurance; methods. 4§ '08 ch.1550, Apr.30
- f **S. C.** Life insurance company not to give out false information as to policy, discriminate between policyholders, give rebates or certain inducements. 3§ '08 ch.509, Feb.27



## INSURANCE

**Agents,** *see* 1736

**Discrimination,** *see* 1742

**Investments,** *see* 1747

### 1758 **Policy. Application. Rates**

- a **La.** Amdg. Const. 1898 by adding article: mortgages on real estate in state and loans to policyholders by insurance companies exempt from taxation. Adopted Nov. 1908. '08 ch.62, June 24
- b **La.** Life and accident insurance companies issuing policies without medical examination to waive forfeitures for misrepresentation where agent has opportunity to ascertain health, habits and occupation of assured. '08 ch.97, July 1
- c **Mass.** Amdg. '07 ch.576 §80 rel. to options in case of default of payment of premium on life insurance policy; endowment policy. '08 ch.166, Mar.5
- d **Mass.** Amdg. '07 ch.561 §11: surrender fee of 1% may be charged by savings bank issuing life insurance policies. '08 ch.222, Mar.14
- e **O.** Establishing standard forms of life insurance policies. 11§ '08 p.139, Apr.22
- f **O.** Msdr. for life insurance company or officer to misrepresent terms or benefits of policy. 3§ '08 p.175, Apr.22
- g **O.** Amdg. R.S. §279 rel. to annual valuation of outstanding life insurance policies by Supt. of Insurance: standard not to be less than that used in computing premiums and guarantees; acceptance of valuation of other state or country. '08 p.178, Apr.22

### 1758(7) **Surplus. Dividends**

- a **Md.** Provision requiring distribution of dividends of life insurance companies within 5 years not to apply to underaverage risks. Adds C. '04 art.23 §200a. '08 ch.396 (p.66), Apr.8
- b **O.** Life insurance company to file separate annual statements of participating and nonparticipating business. '08 p.176, Apr.22
- c **O.** Amdg. R.S. §3602 rel. to payment of dividends by domestic life insurance company: estimating surplus to be set aside. '08 p.181, Apr.22

### 1759 **Mutual insurance**

- a **Mass.** Amdg. '07 ch.576 §116 rel. to penalty for paid officer [or agent] of domestic mutual insurance company soliciting proxies. '08 ch.162, Mar.3

### 1761 **Fraternal beneficiary societies**

- a **Mass.** Amdg. R.L. ch.119 §11: certain fraternal beneficiary corporations authorized to make contracts of reinsurance and transfer. '08 ch.463, Apr.28
- b **O.** Amdg. R.S. §289: association providing for payment of funeral expenses of deceased members not to designate particular undertaker. '08 p.131, Apr.22

1761

- c O. Amdg. R.S. §3631a rel. to exemption of certain kinds of mutual benefit associations from provisions of insurance laws. '08 p.268, May 4
- d W. Va. Amdg. C. ch.55 rel. to organization and operation of farmers mutual coöperative insurance companies and fraternal beneficiary societies. 35§ '08 ch.32, Feb.26

1762 **Accident, health and industrial insurance**

- a La. Regulating organization and conduct of industrial life insurance companies. 7§ '08 ch.246, July 8
- b Mass. Authorizing fidelity company to do liability insurance business. '08 ch.543, May 26

1764

**Fire and other casualty**

*See also* 791, Insurance of public property; 1092, Fires; 1104, Fire limits; 1893, Forest fires; 2603, Fire departments

- a Ky. Amdg. S.'03 §683, 684 rel. to insurance companies other than life: intention to organize to be published 2 [4] consecutive weeks; capital of not less than \$50,000 [\$100,000]. '08 ch.6, Mar.25

Agents, *see* 1736

Discrimination, *see* 1742

1766

**Foreign companies**

- a Md. Person obtaining insurance against fire, lightning or tornado from company not authorized to do business in state, to pay 5% tax on premiums; exception where insurance can not be obtained from authorized companies and in case of mutual companies. Adds. C.'04 art.23 §157a-i. 9§ '08 ch.322 (p.61), Apr.13
- b Mass. Amdg. '07 ch.576 §88 rel. to fire insurance in unauthorized foreign company: filing of affidavit of agent. '08 ch.165, Mar.5

Investments, *see* 1747

1767

**Liability. Losses**

- a La. Requiring prompt payment of losses by fire insurance companies. 4§ '08 ch.168, July 3
- b La. Prohibiting insurance company from paying adjusters on basis of saving in amount to be paid on loss. '08 ch.314, July 9
- c Mass. Where domestic fire insurance company becomes insolvent unpaid losses preferred over claims for return premiums on uncompleted contracts. '08 ch.151, Mar.2
- d N. J. Authorizing fire insurance company to set aside special reserve fund not liable for losses arising from extraordinary conflagrations. '08 ch.258, Apr.14

1769

**Policies. Rates**

- a La. Prohibiting use of coinsurance clause on immovable property unless notice thereof be stamped on face and back of policy. '08 ch.187, July 6

**1770 Mutual companies**

- a **Mass.** Amdg. '07 ch.576 §47 rel. to distribution of dividends in mutual fire insurance company: farm risk may be given amount different from others. '08 ch.482, May 1
- b **W. Va.** Amdg. C. ch.55 rel. to organization and operation of farmers mutual coöperative insurance companies and fraternal beneficiary societies. 35§ '08 ch.32, Feb.26

**1773 Miscellaneous casualty**

- a **Mass.** Amdg. '07 ch.576 §32: authorizing incorp. of companies to insure against damage caused by automobiles to property. '08 ch.248, Mar.20
- b **Mass.** Amdg. '07 ch.576 §32 rel. to purposes for which insurance companies may be organized: damage by explosion without fire, damage to motor vehicles added. '08 ch.509, May 12
- c **N. J.** Amdg. '02 ch.134 §1 rel. to kinds of insurance for which companies may be formed: against damage to or by vehicles; explosion of pipes, engines, motors; nonpayment of mortgages; leakage of fire-extinguishing apparatus or damage thereto. '08 ch.262, Apr.14

**1775 Bicycles. Motor vehicles**

- a **N. Y.** Amdg. insurance law '92 ch.690 §110: corporations for insurance of automobiles authorized. '08 ch.346, May 19

**1787 Hail and cyclone**

- a **Minn.** Submitting amdt. to Const. 1857 art.9 adding new section: state insurance for loss to crops from hail and cyclone; tax on land listed by owners; fund; action by Legis. authorized. Rejected Nov. 1908. '07 ch.479, Apr.25

**1791 Plate glass**

- a **Mass.** Authorizing insurance of plate glass. '08 ch.646, June 13

**1795 Surety and guaranty companies**

*See also 1698, Trust companies*

- a **Md.** Amdg. C.'04 art.23 §99 rel. to publication of warning to foreign trust and fidelity corp. transacting business without making deposit; penalty. '08 ch.385 (p.64), Apr.8
- b **Mass.** Authorizing fidelity company to do liability insurance business. '08 ch.543, May 26
- c **W. Va.** Amdg. C. §2547: guaranty, surety and indemnity companies subject to same supervision as insurance companies. '08 ch.31, Feb.29

**1796 Acceptance on bonds**

*See also 467, Suretyship*

- a **La.** Amdg. C.C. art.3042: debtor may offer surety company bond. '08 ch.225, July 8



**1797 Credit and title insurance**

- a N. J. Amdg. '02 ch.134 §1 rel. to kinds of insurance for which companies may be formed; against damage to or by vehicles; explosion of pipes, engines, motors; nonpayment of mortgages; leakage of fire-extinguishing apparatus or damage thereto. '08 ch. 262, Apr.14

**1800 Navigation. Waterways**

*See also 1384, Canals; 1393, Bridges*

- a Ill. Amdg. Const. 1870: Ill. and Mich. Canal *or other canal or waterway owned by state* to be sold or leased only on vote of people; *construction of deep waterway from Chicago Sanitary District to Ill. river; issue of \$20,000,000 of bonds for construction; lease of water power developed.* Adopted Nov. 1908. '07 (ex.sess.) p.102, Oct.16
- b Ill. Committee to investigate rights of state in certain navigable waters, development of water power and building of deep waterways; to consist of 10 members of Legis. and 5 appointees of Gov.; report to Gov. Aug. 1. 1908. '07 (ex.sess.) p.103, Oct.16
- c La. Joint legis. committee of 5 to investigate port of New Orleans rel. to pilotage, towage, demurrage, dock, transportation and labor charges and transportation facilities; report 1908; \$25,000. 5§  
'07 ch.9, Nov.25

**1803 Harbors**

- a Mass. Regulating breaking up of old vessels within harbor limits. 5§  
'08 ch.595, June 8

**1804 Wharves. Docks. Piers. Wharf lines**

- a La. Amdg. Const. 1898 by adding article ratifying '08 ch.180 which authorizes Bd. of Comrs. of Port of New Orleans to issue \$3,500,000 of bonds for rebuilding of wharves. 7§. Adopted Nov. 1908.  
'08 ch.180, July 3
- b Mass. Providing for laying out of common landing places by towns. 8§  
'08 ch. 606, June 11

**1805 Improvement of waterways (general)**

- a Ill. Amdg. '05 p.40 §1, 2: Internal Improvement Comn. to investigate matter of deep waterway from Lake Michigan to Gulf of Mexico continued for 4 years. '07 (ex.sess.) p.33, Dec.24
- b N. J. Creating Dept. of Inland Waterways: to consist of comr. appointed by Gov. and Senate; term 5 years; salary \$2000; to maintain and improve existing waterways and to recommend new routes; annual report to Gov. 3§  
'08 ch.15, Mar.17
- c N. J. Authorizing borough to straighten navigable stream within or on boundaries. '08 ch.77, Apr.2
- d N. J. Authorizing township by vote of electors to straighten navigable stream within or on boundaries. '08 ch.78, Apr.2
- e N. J. Authorizing construction of inland waterway from Cape May to Bay Head; depth 6 feet, width 100 feet; contract; under supervision of Comr. of Inland Waterways; \$300,000. 4§  
'08 ch.83, Apr.6

1816 Pilotage. Towage. License of pilots

- a **La.** Creating Bd. of River Port Pilot Comrs. for Port of New Orleans: 3 members appointed by Gov. and Senate; appointment and examination of pilots; association; compensation; trial for incompetency; penalties. 9§ '08 ch.54, June 24
- b **La.** Amdg. R.S. §2698, 2701, 2703, 2706 rel. to bar pilots for port of New Orleans: number; compensation; trial for incompetency. 4§ '08 ch.55, June 24
- c **Va.** Amdg. C. §1965, 1968-69 rel. to pilots. Rep. §1967. '08 ch.120, Mar.2

1817 Police

- a **R. I.** Amdg. G.L. ch.107 §1 rel. to revocation of commission of railroad or steamboat police officer appointed by Gov. '08 ch.1555, May 1

1820 Wrecks

- a **Miss.** Remedy for salvors of sunken or abandoned boats and derelict timber; procedure; penalty for conversion or sale without court order. 10§ '08 ch.120, Mar.21

1826 Agriculture

*See also* 956, 1466, Adulteration; 1144, Communicable diseases of animals; 1427, Agricultural products (weights and measures); 1474, Fertilizers; 1588, Veterinary practice; 2343, Agricultural schools

- a **Ky.** Continuation of geological, topographical and agric. survey of state in coöperation with federal govt.; \$15,000. 10§ '08 ch.63, Mar.25
- b **Md.** Constituting trustees of Md. Agric. College State Bd. of Agric. 3§ '08 ch.161 (p.294), Mar.30
- c **Miss.** Authorizing establishment of county depts. of agric. for dissemination of information and development of agric. resources. '08 ch.103, Mar.5
- d **O.** State Bd. of Agric. to consist of 10 *appointees of Gov. and Senate, term 5 years* [forming corp. with perpetual succession]; duties; annual meeting with presidents of county agric. societies; quarterly financial statement. Amds. R.S. §3691 subd.25, 27; §3692. 4§ '08 p.592a, May 1
- e **Okl.** Creating Bd. of Agric. to consist of president elected at gen. election for 4 years and 10 others elected at annual institute for 5 years; salary of president \$2500, of others \$6 per diem; county institutes; bd. to enforce pure food laws and suppress communicable diseases of animals. 14§ '08 ch.3 art.1, Mar.3
- f **Va.** Creating Dept. of Agric. and Immigration under control of Bd. of Agric. consisting of member from each cong. district appointed by Gov. for 4 years and president of Va. College of Agric. and Polytechnic Institute; Comr. of Agric. and Immigration to be elected by people, term 4 years, salary \$2800; dept. employees; institutes; reports. Rep. C. §1785-90. 15§ '08 ch.80, Feb.25

1828

**Experiment stations**

*See also* 2343, Agricultural schools

- a Ill. Assenting to U. S. grant for agric. experiment station.  
'08 p.101, Jan.14
- b Ky. Assenting to Cong. grant for agric. experiment station.  
'08 ch.11, Mar.11
- c La. Establishing branch of State Experiment Station for investigation of cultivation of rice.  
'08 ch.113, July 1
- d O. Assenting to Cong. appropriation for agric. experiment station.  
'08 p.634, Apr.8
- e Okl. Accepting Cong. grant for agric. experiment station.  
'08 p.787, May 5
- f Va. Accepting Cong. grant for agric. experiment station.  
'08 ch.26, Feb.8

1829

**Farmers institutes. Reading courses. Lectures**

- a La. Authorizing Comr. of Agric. to 'appoint farmers institute conductor and fix time of holding institutes; lecturers. 4§  
'08 ch.162, July 2

1832

**Statistics. Weather and crop service**

- a Va. Requiring warehousemen, associations of producers and dealers with producers to report monthly to Comr. of Agric. weight of tobacco handled. 4§  
'08 ch.320, Mar.14

1833

**Injury. Trespass**

- a Ind. Prohibiting injury to growing tobacco or interference with growing or selling tobacco.  
'08 ch.6, Oct.2
- b O. Penalty for maliciously injuring tobacco crop of another.  
'08 p.526, May 9
- c O. Adjutant Gen. to appoint secret service officers to prevent destruction of tobacco crops; \$10,000.  
'08 p.527, May 9

1835

**Associations. Fairs**

- a N. Y. Amdg. agric. law '93 ch.338 §88: associations receiving money from state for premiums at agric. fairs deemed agents of state; to be reimbursed from annual appropriation of \$250,000.  
'08 ch.283, May 18
- b O. Amdg. R.S. §3708: agric. society may mortgage real estate given by county, with consent of county comrs., *for not to exceed 20% of value.*  
'08 p.120, Apr.15
- c O. Amdg. R.S. §3702b rel. to levy for county agric. fair.  
'08 p.249, Apr.30
- d S. C. Authorizing sheriff to appoint deputies for fair association to be paid by association. 4§  
'08 ch.529, Feb.20



## AGRICULTURE

### 1840 State associations and fairs

- a N. Y. Appropriating \$220,000 for construction of manufactures and liberal arts building on state fair grounds. '08 ch.18, Mar.5
- b N. Y. Amdg. agric. law '93 ch.338 §141, 144 rel. to State Fair Comn.: 7 [11] members; 5 [9] members appointed by Gov. and Senate; Lieut. Gov. presiding officer; [no] compensation of appointives \$3000; fees need not be paid into State Treasury. Rep. §145. 3§  
'08 ch.31, Mar.18

### 1844 Horticulture. Diseases and pests

See also 1492, Insecticides; 1630, Encouragement of industries

- a Ga. Salary of State Entomologist \$2000. '08 p.69, Aug.14
- b La. Joint legis. committee of 9 to investigate Crop Pest Comn. with regard to expenditure of moneys and benefits to agric. interests. '08 ch.9, May 28
- c Miss. Entomologist of Experiment Station to make rules for inspection, sale, transportation and importation of trees and plants; certification; duties of owner of infected orchard. 9§  
'08 ch.105, Mar.19

### 1846 Boll weevil

- a S. C. To prevent importation of boll weevil. 5§  
'08 ch.488, Feb.24

### 1850 Moths

- a Mass. Amdg. '05 ch.381 §3, 6: person officially engaged in suppressing gypsy and brown tail moths authorized to enter on private land. '08 ch.591, June 8
- b R. I. Amdg. '07 ch.1472: supt. to suppress gypsy and brown tail moths appointed by State Bd. of Agric. [Gov. and Senate]. 7§  
'08 ch.1529, Apr.14

### 1854 Weeds

- a Okl. To prevent spread of Johnson grass and Russian thistle. 9§  
'08 ch.3 art.2, Mar.25

### 1856 Noxious animals. Bounties

#### 1860 Foxes

- a R. I. Bounty on fox \$3; \$500. Rep. '00 ch.783. 3§  
'08 ch.1586, May 26

#### 1862 Gophers. Prairie dogs. Ground squirrels

- a Kan. Bounty of 10c for pocket gophers and ground moles.  
'08 (ex. sess.) ch.60, Feb.1

#### 1870 Seals

- a Mass. Rep. R.L. ch.91 §139 which established bounty for seals.  
'08 ch.76, Feb.10

1875

## Domestic animals

*See also* 896, Cruelty to animals; 961, Milk and milk products; 1083, Slaughterhouses; 1144, Communicable diseases of animals; 1472, Commercial feed for stock; 1588, Veterinary practice

1876

## Running. Impounding. Fences

1877

### Running at large

- a Okl. County comrs. may exempt county or district thereof from herd law. 4§ '08 ch.4 art.2, May 21

Fences, *see* 387

1882

## Ownership. Sale. Miscellaneous

1884

### Stealing. Driving. Using

- a R. I. Penalty for stealing domestic animal. Adds G.L. ch.279 §68. '08 ch.1569, May 7

1885

### Breeding. Pedigrees

- a Md. Amdg. C.'04 art.27 §177-80 rel. to registering of stallion *or jackass* and lien for service. 4§ '08 ch.46 (p.82), Mar.3
- b N. J. Creating Live Stock Comn. to consist of director and husbandman of State Experiment Station, representative of State Grange and 2 members, graduated veterinarian and breeder of live stock, appointed by Gov. for 3 years; \$10 per diem; to maintain for use in several counties stallions of draft and coach types; to aid in selection of dams and sires of other kinds of live stock; to constitute stallion examining bd.; \$20,000; \$5000 annually. 5§ '08 ch.56, Apr.1
- c N. J. Regulating public service of stallions and jacks: registration; animal husbandman of State Experiment Station, graduate veterinarian and prominent breeder to constitute Stallion Examining and Registration Bd.; examination; licenses; disqualifying diseases enumerated; penalties. 11§ '08 ch.212, Apr.13

1888

## Dogs

*See also* 1163, Rabies

- a N. Y. Amdg. '02 ch.294 §14 rel. to dogs in city of 2d class: *police justice* [comr. of public safety] may order destruction. '08 ch.375, May 19

1889

### Dog tax

- a Mass. Amdg. R.L. ch.102 §130 rel. to tax on dogs: certified copy of certificate of person spaying bitch filed with city or town clerk evidence of operation. '08 ch.169, Mar.5
- b Mass. Amdg. R.L. ch.102 §143: dog officer in city of over 25,000 to receive same pay as regular police officer. '08 ch.182, Mar.6
- c N. Y. Amdg. county law '92 ch. 686 §128 rel. to registration of dogs in village situate in 2 or more towns. '08 ch.373, May 19
- d O. Amdg. R.S. §2833 rel. to distribution of surplus of dog tax. '08 p.484, May 9

## FORESTRY

1889(5

### *Injury to stock*

- a O. Amdg. R.S. §4215 rel. to payment for sheep killed by dogs. '08 p.250, Apr.30
- b W. Va. Amdg. C.ch.62 §9a subd.1, 2, 4 rel. to tax on dogs to protect sheep, goats etc.: assmt; rates; delinquents; referendum. Adds §9a subd.5. 4§ '08 ch.29, Mar.6

1890

## Forestry

*See also* 1598, Arbor day; 2742, Roads

- a Ala. Creating State Comm. of Forestry to consist of Gov., member of State Tax Comm., State Game and Fish Comr., Comr. of Agric. and Industries, practical lumberman appointed by Gov. for 4 years, member of U. S. Forest Service, professor of forestry in Ala. Polytechnic Institute; forest reserve established; exemption from taxation for tree planting; forest wardens; prevention of forest fires; forest reserve fund; U. S. authorized to acquire land for national forest reserve. 18§ '07 (ex.sess.) p.192, Nov.30
- b Mass. Appropriating \$10,000 annually for purchase of forest land and for reforestation; repurchase by owners; gifts; distribution of seeds and seedlings to land owners. 8§ '08 ch.478, May 1
- c Mass. Authorizing sale of publications of State Forester designated by Gov. and Council. '08 r.121, June 1

1892

### Bounty. Exemption

- a Mass. Amdg. R.L.ch.12 §6 rel. to exemption from taxation of land growing certain varieties of trees. '08 ch.120, Feb.25
- b R. I. Amdg. G.L.ch.44 §3 rel. to exemption from taxation of plantation of trees: other varieties of trees added; period of exemption to run from time when necessary to replant on account of fire; trees must be planted under plan approved by State Comr. of Forestry; not more than 300 trees of 1 person exempt. '08 ch.1581, May 22

1893

### Forest fires

*See also* 1322, Railroads

- a Mass. Protection of forest or sprout lands from fire: fires not to be set in open air between Apr. 1 and Dec. 1 except with permission of forest warden; exceptions; to be adopted by town on referendum vote. 5§ '08 ch.209, Mar.14
- b N. J. Amdg. '06 ch.123 §2, 3, 6, 7, 9, 11, 12, 16 rel. to forest fire prevention and fire wardens. 8§ '08 ch.213, Apr.13
- c Va. Amdg. C. §3701: penalty for setting fire to woods increased. '08 ch.40, Feb.15

1894

### Forest preserves

*See also* 798, State parks

- a Ill. Joint legis. committee of 10 to recommend legislation to next Gen. Assembly rel. to creation of forest preserve districts. '07 (ex.sess.) p.104, Oct.23



1894

- b Md. Consenting to acquisition by U. S. of lands in mountains for national forest reserve. '08 ch.217 (p.266), Apr.1
- c N. J. Township or municipality to be paid annually 2c per acre of forest reserve therein. '08 ch.214, Apr.13
- d Okl. Memorializing Cong. to have revoked order of Sec. of Interior segregating to forest preserve certain lands in state suited for agric. purposes. '08 p.782
- e R. I. Urging Cong. to establish national forests in White mountains and Southern Appalachian region. '08 r.13, Apr.30
- f W. Va. Urging representatives in Cong. to secure passage of Appalachian Forest bill. '08 p.257, Mar.2

School of forestry, *see* 2347

1896

Lumber

1897

*Brands. Drift timber. Stealing*

- a La. Declaring unconst. '02 ch.103 making it felony to trespass on timber lands of another. Embraces more than 1 subject.  
State v. Peterman 46 S. 672 (1908)  
State v. Davis 46 S. 673 (1908)
- b Miss. Remedy for salvors of sunken or abandoned boats and derelict timber; procedure; penalty for conversion or sale without court order. 10§ '08 ch.120, Mar.21

1899

*Transportation*

- a N. C. Amdg. Revisal 1905 §2686: manner of securing right to float logs and timber along water course. '08 ch.99, Feb.1
- b Wash. Submitting amdt. to Const. 1889 art.1 §16: right of eminent domain for right of way for removal of timber. 3§. Rejected Nov. 1908. '07 ch.69, Mar.5

1900

Game and fish

- a La. Creating Bd. of Comrs. for Protection of Birds, Game and Fish: 3 members appointed by Gov. and Senate for 4 years; enforcement of game laws; hunter's license. 10§ '08 ch.278, July 9
- b Md. Amdg. '04 ch.202 §2 rel. to rations and pay of crews of vessels of State Fishery Force. '08 ch.609 (p.216), Apr.13
- c Mass. Rel. to Comrs. of Fisheries and Game and deputies: to have police powers; to wear badges; penalty for use of badge by unauthorized person; may carry weapons. 3§ '08 ch.417, Apr.21
- d N. J. Creating comn. to coöperate with Pa. and N. Y. authorities rel. to preservation and propagation of fish in Delaware river, to consist of President of Senate, Speaker of Assembly, 5 members of Legis., President of N. J. Fish and Game Comn. and 1 appointee of Gov. '08 p.726, Mar.25
- e N. Y. Revising and recodifying forest, fish and game law '00 ch.20; hunting license, nonresident \$20, resident \$1, provided for. 243§ '08 ch.130, Apr.14  
§32, 82, 89, 91, 96, 106, 123, 153, 174 amended; §174a added.  
'08 ch.471, May 22

## GAME AND FISH

1900

- f O. Consolidating fish and game laws. 83§ '08 p.364, May 9
- g S. C. Amdg. '07 ch.315 §13: game warden to take oath before clerk of County Court *or notary public*. '08 ch.531, Feb.25
- h S. C. Generally amdg. '06 ch.60 which regulates taking and trafficking in oysters, terrapin, clams, shad and sturgeon. 12§  
'08 ch.532, Feb.27
- i Va. Creating game wardens fish wardens; entitled to half of fines. 4§ '08 ch.33, Feb.8
- j Va. Amdg. C. §2095: nonresident not to take fish to convert into oil, *fish scrap* or manure; *penalty and forfeiture*. '08 ch.171, Mar.11
- k Va. Amdg. C. §2099 rel. to license to take fish for oil, fish scrap or manure: prerequisites to granting. '08 ch.204, Mar.12
- n Va. Amdg. '98 ch.225: name of Bd. of Fisheries changed to Comn. of Fisheries; Comr. of Fisheries created, member of bd. salary \$2500; duties. 11§ '08 ch.232, Mar.12

1904

### Enforcement. Fines

For game wardens, *see* 1900

- a Mass. Comrs. on Fisheries and Game or deputies may require person to exhibit fish or game in possession; may arrest without warrant if refused. '08 ch.255, Mar.20
- b Mass. Rel. to division between state and county of fines collected under fish and game laws. Rep. R.L. ch.91 §137; ch.92 §20.  
'08 ch.330, Mar.31
- c W. Va. Declaring unconst. '01 ch.93 as far as giving wardens all fines for violations of game laws. Net proceeds of fines to go to free schools. State v. Parkins 61 S. E. 337 (1908)

1906

### License to hunt or fish

- a Mass. Amdg. '05 ch.317 §1, 2 rel. to granting license to hunt to unnaturalized aliens. '08 ch.402, Apr.16
- b Mass. Registration fee for resident hunters of \$1. 5§  
'08 ch.484, May 1
- c N. J. Hunter's license for unnaturalized, foreign-born resident hunters \$10. 4§ '08 ch.76, Apr.2
- d N. J. Nonresident license to hunt; \$10; limitation on removal of game from state; penalties. 5§ '08 ch.243, Apr.13
- e N. J. Rep. '02 ch.263 rel. to nonresident hunting license.  
'08 ch.244, Apr.13
- f S. C. Sale of partridge or quail prohibited for 5 years from 1907 [1912]; Mongolian pheasant not to be taken till 1912 [1910]; nonresident hunting license of \$25 required. Amds. '06 ch.54 §1, 2. 3§  
'08 ch.499, Feb.25

1907

### Shipment and sale. Purpose of taking. Amount

- a La. Authorizing parish to regulate shipping of game, deer excepted. '08 ch.207, July 8
- b N. J. Where lawful to ship game from other state, it may be brought into N. J.; may not be sold; penalty. '08 ch.202, Apr.13

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1907

- c N. J. Amdg. '03 ch.246 §38: game shipped from foreign country may be kept during close season on permit from Fish and Game Comr. and giving of bond not to sell same. '08 ch.281, Apr.15

1908

Trespass. Private lands. State waters

- a N. J. Amdg. '03 ch.176 §1: unlawful to hunt or fish on private land without consent of owner [provided notice be posted]; penalty 10 days or \$10 [\$100]. '08 ch.204, Apr.13

1909

Game

General laws are put under 1900. See also 1856, Noxious animals

1911

Close season

- a N. J. Open season for woodcock, partridge, quail, English pheasant, prairie chicken, wild turkey, rabbit, squirrel in certain northern counties Oct. 15 to Dec. 1, in balance of state Nov. 15 to Dec. 31. '08 ch.222, Apr.13

1913

Big game

- a Kan. Close season for antelope and deer for 10 years. 3§ '08 (ex.sess.) ch.59, Jan.31

1919

Deer

- a Ga. Amdg. '03 p.100 §1: close season for game birds Mar. 1 to July 1 [Sept. 1]; for deer Jan. 1 to July 15 [Sept. 1]. '08 p.99, Aug.14  
b Mass. Amdg. R.L. ch.'92 §17 rel. to deer: close season to Nov. 1, 1910 [1908]; farmer or member of family or person acting under his direction may kill deer destroying crops or fruit trees. '08 ch.377, Apr.10

1927

Small game

- a R. I. Prohibiting wire snares to take animals. '08 ch.1567, May 6

1939

Rabbit. Squirrel

- a Mass. Close season for gray squirrel till Oct. 1, 1910. 3§ '08 ch.284, Mar.25  
b Mass. Authorizing cold storage concern to buy or sell rabbits at any time if lawfully killed in state or elsewhere. '08 ch.413, Apr.17  
c Va. Amdg. C. §2070a, 2079 rel. to protection of game and other birds, and hares. '08 ch.176, Mar.11

1944

Birds

- a Mass. Bd. of Agric. to appoint annually State Ornithologist; salary \$500; to investigate habits of birds of state; relation of birds to outbreaks of insects; protection of crops and fruits from birds; to act in advisory capacity as to economic status of birds. 3§ '08 ch.245, Mar.19  
b Va. Amdg. C. §2070a, 2079 rel. to protection of game and other birds, and hares. '08 ch.176, Mar.11



## FISH

1947

### Game birds

- a La. Regulating taking of game birds. 15§ '08 ch.277, July 9

1948

### CLOSE SEASON

- a Ga. Amdg. '03 p.100 §1: close season for game birds Mar. 1 to July 1 [Sept. 1]; for deer Jan. 1 to July 15 [Sept. 1].  
'08 p.99, Aug.14
- b S. C. Amdg. Crim.C. §553 rel. to close season for game birds.  
'08 ch.457, Feb.20

1949

### Anatidae

Waterfowl: swan, goose, duck, brant

- a N. J. Amdg. '03 ch.246 §6, 8 rel. to hunting waterfowl.  
'08 ch.94, Apr.6

1950

### Gallinae

Black game, capercaillie, grouse, partridge or ruffed grouse, pheasant, prairie chicken, ptarmigan, quail, sage fowl, wild turkey

- a Mass. Close season for ruffed grouse, woodcock and quail Nov. 1 [Dec. 1] to Oct. 1 [Nov. 1]; *packages of such birds in cold storage in close season to be marked with name and number of birds.* Amds. '06 ch.303; rep. R.L. ch.'92 §2. 4§ '08 ch.441, Apr.24
- b Mass. No open season for Mongolian, Chinese, golden or English pheasant; Comrs. of Fisheries and Game may grant permission to land owner to shoot pheasants reared by him. Rep. R.L. ch.92 §16.  
'08 ch.477, May 1
- c O. Amdg. '04 p.463 §17: close season for pheasant extended to Nov. 1913. '08 p.137, Apr.22
- d S. C. Sale of partridge or quail prohibited for 5 years from 1907 [1912]; Mongolian pheasant not to be taken till 1912 [1910]; non-resident hunting license of \$25 required. Amds. '06 ch.54 §1, 2. 3§ '08 ch.499, Feb.25
- e S. D. Close season for quail till 1912. 3§. Adopted by referendum vote Nov. 1908. '07 ch.158, Mar.7

1952

### Shore birds

Woodcock, plover, snipe, sandpiper, curlew

- a R. I. Close season for shore birds Dec. 31 to Aug. 1.  
'08 ch.1582, May 22

1959

## Fish

General laws are put under 1900.

1963

### Fishways

- a S. C. Amdg. Crim.C. §518 which requires fishways to be erected on dams: county comrs. may excuse; to be approved by county comrs.; to be erected within 30 days. '08 ch.460, Feb. 24

1966 **Special methods of fishing**

- a **La.** Amdg. '96 ch.121 §9 rel. to special methods of taking fish.  
'08 ch.249, July 8
- b **Mass.** Amdg. R.L. ch.91 §132 rel. to lawful methods of taking fresh-water fish.  
'08 ch.492, May 5
- c **Va.** Amdg. C. §2086: person or corp. engaged in taking fish for oil, fish scrap or manure to obtain license to use purse net; may not employ vessel.  
'08 ch.355, Mar.14

1968 ***Fishing through ice***

- a **O.** Amdg. '04 p.463 §23: live bait or minnows may be shipped from state for use in Lake Erie; fishing through ice. '08 p.447, May 9

1971 ***Seining. Nets***

- a **Ga.** Msdr. to take fish with drift nets between sundown Thursday and sunrise Monday. '08 p.100, Aug.14

1974 **Special kinds of fish**

- a **Mass.** Comrs. on Fisheries and Game to investigate subject of dog fish: methods of extermination; value for commercial purposes; \$10,000. '08 r.69, Apr.13

1977 **Bait minnows**

- a **O.** Amdg. '04 p.463 §23: live bait or minnows may be shipped from state for use in Lake Erie; fishing through ice. '08 p.447, May 9

1982 **Eels**

- a **N. J.** Amdg. '03 ch.246 §25: spearing of eels and suckers allowed from Feb. 20 to *June 30* [Apr. 20]. '08 ch.184, Apr.11

1986 **Salmon**

- a **Or.** To protect salmon and sturgeon. 8§. Proposed by initiative petition; adopted June 1, 1908.

1992 **Sturgeon**

- a **N. J.** Regulating fishing for sturgeon in Delaware bay and river.  
5§ '08 ch.241, Apr.13
- b **Or.** To protect salmon and sturgeon. 8§. Proposed by initiative petition; adopted June 1, 1908.

1994 **Suckers**

- a **N. J.** Amdg. '03 ch.246 §25: spearing of eels and suckers allowed from Feb. 20 to *June 30* [Apr. 20]. '08 ch.184, Apr.11

2000 **Shellfish. Miscellaneous**

- a **Ill.** Protection of shellfish; close season; nonresident boat license; size of boat; prosecution. 6§ '08 p.83, Feb.24
- b **La.** Authorizing parish police juries to prohibit killing of alligators. '08 ch.37, June 20

## FISH

2007

### Clams

- a N. J. Amdg. '05 ch.75 §16: oysters or clams not to be planted upon unleased state lands. '08 ch.230, Apr.13
- b R. I. Penalty for taking quahaugs under size \$5 per *quart* [bushel]; dredges not to be operated by power boats;  $\frac{1}{2}$  fine for complainant,  $\frac{1}{2}$  for state. Amds. '06 ch.1369 §1. 3§ '08 ch.1570, May 7

2011

### Oysters

*See also* 1449, Weights and measures

- a La. Carrying oysters in shell out of state prohibited. Amds. '04 ch.52 §22. '08 ch.291, July 9
- b Md. Joint legis. committee of 12 to confer with similar committee of Va. Legis. rel. to concurrent oyster legislation. '08 p.1503
- c Miss. Rel. to taking oysters: tax; size; closed season; penalty; record of shipments;  $\frac{1}{3}$  of shells to be delivered to Oyster Comn.; new reefs. Amds. C. '06 §3498, 3500, 3507, 3514. 8§ '08 ch.192, Mar.7
- d S. C. Amdg. Crim.C. §529: larceny to steal *unlawfully* [feloniously] oysters from bed. '08 ch.459, Feb.20
- e Va. Amdg. C. §2154 rel. to theft of oysters in beds. '08 ch.268, Mar.13

2012

### STATE DEPARTMENTS. OFFICERS

- a La. Amdg. '06 ch.178 §7 rel. to expenses of Oyster Comn. '08 ch.167, July 3

2013

### Beds. Grounds

- a N. J. Amdg. '05 ch.75 §16: oysters or clams not to be planted upon unleased state lands. '08 ch.230, Apr.13

2016

### Taxation. License

- a Md. Amdg. C.'04 art.72 §23 rel. to licensing oyster boats [and hands employed]. '08 ch.104 (p.215), Mar.19
- b Md. Amdg. C.'04 art.72 §69: inspection tax on oysters *1c* [ $\frac{3}{4}$  of 1c] per bushel. '08 ch.488 (p.218), Apr. 6

2017

### Scallops

- a Mass. Amdg. R.L. ch.91 §83 which prohibits taking of scallops. '08 ch.270, Mar.25

2019

### Terrapin

- a La. Regulating taking and shipping of diamond-back terrapin. 5§ '08 ch.196, July 8



2020

## Mines and mining

*See also* 500, Corporations; 846, Taxation; 2349, Mining schools. For labor in mines *see* 2040, Labor

- a **Okl.** Creating State Mining Bd. to consist of 2 coal miners, 1 mining engineer, 1 hoisting engineer and 1 coal operator: appointed by Gov., term 4 years; miner to be credited with weight of coal before screening; weighmen and checkweighmen; scales; examination as to competency of certain employees; toilet and wash rooms; convicts not to be employed in mines except quarries. 16§ '08 ch.54 art.1, May 16

2035

## Petroleum. Gas

*See also* 1493, Petroleum products (inspection)

2036

## Pipe lines

- a **Okl.** Regulating laying of pipe lines and transportation of natural gas through same. 10§ '07 ch.67 art.1, Dec.21

2040

## Labor

*See also* 354, Convict labor; 1612, Labor day

- a **Ill.** Gov. to appoint committee of 10 representing various interests to investigate legislation for health, safety and comfort of employees in factories and mercantile establishments.  
'07 (ex.sess.) p.104, Nov.27
- b **Ill.** Amdg. '79 p.61 §2: penalty for employer to hinder Comrs. of Labor in procuring statistics or to refuse to furnish information.  
'08 p.80, June 1
- c **La.** Creating Comr. of Labor and Industrial Statistics: appointed by Gov. and Senate; term 4 years; salary \$1500; duties. 7§  
'08 ch.155, July 2
- d **Mass.** Person over 50 not to be appointed inspector of factories and buildings or member of inspection dept. of metropolitan police.  
'08 ch.375, Apr.8
- e **Mass.** Authority of chief or deputy chief of inspection dept. of metropolitan police and inspectors of factories and public buildings to enter buildings; penalty for resisting; enforcement. 3§  
'08 ch.389, Apr.11
- f **Mass.** Rel. to publications of Bureau of Statistics of Labor. Amds. R.L. ch.107 §2; '04 ch.410. 5§  
'08 ch.462, Apr.28
- g **Mass.** Rel. to expenditures by Bureau of Statistics of Labor for collection of manufacturing and munic. statistics. Rep. R.L. ch.107 §9.  
'08 ch.481, May 1
- h **Mass.** Sec. of Commonwealth to codify labor laws.  
'08 r.82, May 1
- i **Mass.** Authorizing tabulation of data rel. to occupations and social conditions from last decennial census; \$10,000; 4 vols.; contents; printing; distribution. 3§  
'08 ch.517, May 14

## LABOR

2040

j N. J. Gov. to appoint 2 additional factory inspectors, 1 to be woman. '08 ch.273, Apr.14

k N. Y. Amdg. labor law '97 ch.415 §32-34, 167-69, 171-73: bureau of mercantile inspection established in Dept. of Labor; inspection of mercantile houses in cities of 1st class. Adds §181-84. 13§  
'08 ch.520, June 16

n O. Salary of inspector of workshops and factories \$2500.  
'08 p.50, Mar.19

p Okl. Defining duties of Comr. of Labor; creating State Bd. of Arbitration and Conciliation of 6 members appointed by Gov. and Senate; free employment bureau established; regulation of private employment bureaus; inspection of factories. 37§ '08 ch.53 art.1, May 22

2046

### Comfort of employees

2048

#### *Wash rooms and closets*

a N. Y. Amdg. labor law '97 ch.415 §88, 94 rel. to water-closets in factories and stairs, doors and ventilation in tenant-factories.  
'08 ch.426, May 20

2049

### Health of employees

a Mass. Prohibiting use of foul water in factory for humidifying purposes. 3§  
'08 ch.325, Mar.31

2051

#### *Dust and gases*

a Va. Requiring sponge shields to protect employees in peanut cleaning establishments and cotton factories from inhaling dust.  
'08 ch.228, Mar. 12

2052

### Safety of employees

*See also 2125, Employers liability*

a La. Doors of public buildings and factories to open outwardly.  
'08 ch.73, June 30

2054

### Building trades

2056

#### *Safety of employees*

a La. Protection of persons in construction of building in city of 30,000. 10§  
'08 ch.264, July 9

b Okl. Safe scaffolds, railings and counter floors to be provided in construction of buildings, bridges etc. 5§  
'08 ch.53 art.6, May 2

2063

### Mines

*See also 2020 Mines and mining*

a Ill. Establishing miners' examining bds. in counties; coal miner required to have certificate of competency issued by bd. Rep. '97 p.269.  
9§  
'08 p.90, June 1

2063

- b **Ky.** Rel. to protection of persons employed in coal mines: 2 additional inspectors; examination of foremen; special shot-firers; caps and props; penalties. 8§ '08 ch.59, Mar.20
- c **O.** Creating comm. of 7 to consist of 3 miners, 3 owners of coal mines and 1 appointed by others to investigate regulation of coal mines and protection of operatives; report to Gov. with recommendations for legislation; \$5000. 4§ '08 p.321, May 9
- d **Okl.** Duties of chief mine inspector; assistants; 3 mining districts; regulations for coal and other mines rel. to safety of miners; boys under 16 and females not to be employed underground; 8 hour day underground. 66§ '08 ch.54 art.2, Apr.6
- e **Okl.** Creating State Mining Bd. to consist of 2 coal miners, 1 mining engineer, 1 hoisting engineer and 1 coal operator: appointed by Gov., term 4 years; miner to be credited with weight of coal before screening; weighmen and checkweighmen; scales; examination as to competency of certain employees; toilet and wash rooms; convicts not to be employed in mines except quarries. 16§ '08 ch.54, art.1, May 16

2066

*Safety of employees*

- a **N. Y.** Amdg. labor law '97 ch.415 §126 rel. to report to Comr. of Labor of accidents in mines, tunnels or quarries resulting in personal injury. '08 ch.89, Apr.6
- b **O.** Amdg. R.S. §290a, 292, 294, 296-99, 301 rel. to inspection of mines and protection of miners. Adds §290b, rep. §295a-c. 10§ '08 p.106, Apr.15
- c **O.** Requiring insulation or guards on electric wires and shields on machines in mines. 3§ '08 p.335, May 9
- d **W. Va.** Requesting Cong. to create National Bureau of Mines to investigate prevention of mine accidents. '08 p.256, Feb.28

2067

BLASTING

- a **Ind.** Amdg. '07 ch.204 §2: drill bit for boring holes for blasting explosive in coal mine not to exceed 3 1/4 [2 1/2] inches in diameter; *provision not to apply to block coal mining.* '08 ch.7, Oct.5
- b **O.** Regulating use of explosives and blasting in coal mines. '08 p.55, Apr.3

2077

Railways

2080

*Safety of employees*

- a **Md.** Requiring crew of 6 on freight train of over 30 cars; penalty and enforcement; employee injured because of violation not deemed to have assumed the risk. Adds C. '04 art.23 §300k-p. 6§ '08 ch.724 (p.71), Apr.8
- b **N. Y.** Amdg. '93 ch.544 §2: caboose for freight train required to have platform with railing at each end. '08 ch.448, May 21



## LABOR

2085

### Hours

*See also* 2113, Employment

2086

### Women

- a **Mass.** Amdg. R.L. ch.106 §24: child under 18 or woman not to be employed in factory over 56 [58] hours per week; *may average 56 for entire year, but not to exceed 58 in any one week.* '08 ch.645, June 13

2089

### Children

*See also* 2118, Employment of children

- a **Mass.** Amdg. R.L. ch.106 §24: child under 18 or woman not to be employed in factory over 56 [58] hours per week; *may average 56 for entire year, but not to exceed 58 in any one week.* '08 ch.645, June 13

2094

### Mines

- a **Okl.** Duties of chief mine inspector; assistants; 3 mining districts; regulations for coal and other mines rel. to safety of miners; boys under 16 and females not to be employed underground; 8 hour day underground. 66§ '08 ch.54 art.2, Apr.6

2096

### Public work

- a **Okl.** 8 hour day on public work. 3§ '08 ch.53 art.4, May 27

2100

### Wages

*See also* 419, Mechanics liens; 451, Exemption from execution; 742, Garnishment

- a **Okl.** Declaring unconst. S.'03 §6915 providing for recovery of atty.'s fees in action for personal services. Denies equal protection of laws. Chicago, R. I. & P. Ry. Co. v. Mashore 96 P. 630 (1908)

2101

### Assignment

- a **Mass.** Providing for licensing of persons engaged in making loans of less than \$200 with interest over 12%; licensing authorities to fix rates of interest; graduated system of bonuses established; assignment of wages for loan under \$200 invalid without written consent of employer and wife. 8§ '08 ch.605, June 11
- b **R. I.** Regulating assignment of wages. 7§ '08 ch.1551, Apr.30
- c **Tex.** Declaring unconst. '05 ch.111 imposing occupation tax on purchasers of assignments of unearned wages. Nonuniform tax; restrains freedom of trade. Owens v. State 112 S. W. 1075 (1908)

2103

### *Mode of payment: money, company stores, certificates*

- a **La.** Checks redeemable in merchandise to be payable to bearer in money; interest and atty.'s fees recoverable on refusal. 3§ '08 ch.228, July 8
- b **N. Y.** Amdg. labor law '97 ch.415 §9: corp. engaged in harvesting and storing ice required to pay wages in cash. '08 ch.443, May 20

2104 *Period of payment*

- a **Mass.** Amdg. R.L. ch.106 §62: workmen in state charitable and penal institutions to be paid weekly. '08 ch.650, June 13
- b **N. Y.** Amdg. labor law '97 ch.415 §10: railroad employees to be paid *twice* [once] per month. '08 ch.442, May 20

2113 **Employment**

See also 1246(5, Common carriers; 2158, Unemployed

- a **La.** Not less than 4% interest to be paid employee on deposit for faithful performance. '08 ch.31, June 20
- b **Mass.** Penalty for publishing false advertisement for help. '08 ch.217, Mar.14
- c **Mass.** Authorizing Chief of Bureau of Statistics of Labor to furnish weekly bulletins of information rel. to demand for employment to city and town clerks; latter to post same. 3§ '08 ch.306, Mar.27
- d **N. J.** Rep. '05 ch.94 appointing comn.to revise and codify law of master and servant. '08 ch.232, Apr.13

2113(5) *Contracts*

- a **S. C.** Msdr. to fail fraudulently to perform contract for personal services or to fail to employ after contract. 9§ '08 ch.494, Feb.24

2115 *Free employment bureaus*

- a **Mass.** Rel. to free employment bureaus in certain cities: supts.; clerical assistance; offices; registers; penalty for charging fee; reports; amount of expenses. Amds. '06 ch.435 §2-6; '07 ch.135 §1. 7§ '08 ch.485, May 1
- b **R. I.** Establishing free employment offices under direction of Comr. of Industrial Statistics in places selected by him; regulations. 10§ '08 ch.1528, Apr.14

2117 *Women*

- a **La.** Regulating employment of children and women. 24§ '08 ch.301, July 9

2118 *Children*

See also 2172, Children (dependent and neglected); 2270, Compulsory attendance

- a **Ky.** Child labor law: children under 14 not to be employed in school term, between 14 and 16 to have employment certificate showing educational requirements; health and comfort regulations for those working. Rep. '02 ch.16. 19§ '08 ch.66, Mar.18
- b **La.** Regulating employment of children and women. 24§ '08 ch.301, July 9
- c **Miss.** Rel. to employment of children in factories at indoor work or where machinery dangerous: not under 12; not over 10 hours per day, 58 per week nor between 7 p. m. and 6 a. m. if under 16; enforcement. 9§ '08 ch.99, Mar.21

## LABOR

2118

- d O. Amdg. '98 p.123 §1-4 rel. to employment of minors: age; school certificate; hours; jurisdiction of Juvenile or Probate Court; special occupations; 8 female visitors; health and safety; prosecution. 4§ '08 p.30, Feb.28
- e S. C. Amdg. C.C. §2694: employer of minor to pay wages to parents on demand *except where parents neglect to support minor*. '08 ch.451, Feb.19
- f Va. Children under 14 not to be employed in factory, workshop, mercantile establishment or mine; exceptions. '08 ch.301, Mar.13

2119

### Mines

- a O. Amdg. '06 p.259 §1 rel. to hiring of experienced coal miners. 3§ '08 p.21, Feb.26

2122

### Public work. Aliens

- a La. Requiring mechanic on public works in city of over 10,000 to be citizen of state and to have paid poll tax for current or preceding year. 3§ '08 ch.271, July 9

2125

### Employers liability. Insurance

*See also 1732, Insurance; 1762, Industrial insurance*

- a Mass. Justice of Superior Court on petition in ordinary language setting forth injury by defect in machinery may grant order allowing person named in petition to examine machinery; notice to employer; hearing. '08 ch.380, Apr.10
- b Mass. Amdg. R.L. ch.106 §73 rel. to manner of bringing action under employers liability act '08 ch.457, Apr.28
- c Mass. Authorizing approval by State Bd. of Conciliation and Arbitration of plan of compensation by employer of injured employee; contract thereunder valid. 6§ '08 ch.489, May 5

2126

### Railroads

- a Mass. Amdg. R.L. ch.106 §71 rel. to liability of railroad for injuries to employee: extended to elevated railways. '08 ch.420, Apr.21
- b Mass. Amdg. '06 ch.463 pt.2 §167: employee of railroad injured by train or locomotive by reason of negligence of fellow employee not deemed to have assumed risk. '08 ch.553, May 28
- c Miss. Amdg. C.'06 §4056: fellow servant rule abolished in action for injury to employee of railroad. '08 ch.194, Mar.20
- d O. Liability of railroad to employee for injury due to its negligence: risk of employment not assumed to have been taken; fellow servant rule abrogated; slight contributory negligence not bar to recovery. '08 p.25, Feb.28
- e O. Amdg. R.S. §3270: railroad may not maintain relief association whose members are required to waive right of damages in case of injury. '08 p.71, Apr.8



2130                      **Unions. Associations**

- a     **Okl.** Prohibiting compelling person to agree not to join labor organization; bringing workmen from other place in state or from without under false pretenses, latter to include concealment of existence of strike; felony to hire armed men to guard such persons. 6§  
'08 ch.53 art.2, June 6

Union labels, *see* 1503

2134                      **Labor disputes**

*See also* 749, Injunction

2136                      **Conciliation and arbitration**

- a     **N. J.** Rep. '92 ch.137 which established State Bd. of Arbitration.  
'08 ch.25, Mar.25

2137                      **Blacklisting. Membership in unions**

- a     **Miss.** Prohibiting blacklisting of telegrapher because of membership in union; actual and exemplary damages may be recovered. 4§  
'08 ch.93, Mar.7
- b     **Okl.** Employee of public service corp. or contractor to be given letter stating cause of discharge; letter not to be on blank and paper not to have distinguishing marks.                      '08 ch.53 art.3, Apr.24

2139                      **Strikes**

- a     **Okl.** Prohibiting compelling person to agree not to join labor organization; bringing workmen from other place in state or from without state under false pretenses, latter to include concealment of existence of strike; felony to hire armed men to guard such persons. 6§  
'08 ch.53 art.2, June 6

2140                      **Charities**

*See also* 60, State institutions; 335, Corrections; 583, Corporations not for profit; 1761, Fraternal beneficiary societies

- a     **Mass.** Trustee appointed under will to hold property for charitable purposes to give bond as other trustees under wills or appointed by Probate Court; latter may grant exemption.  
'08 ch.295, Mar.25
- b     **N. J.** Comn. of 9, some of whom may be women, to investigate causes of dependency and criminality; subjects to be considered; report next session; \$5000. 3§  
'08 ch.140, Apr.9

2142                      **State boards and officers**

- a     **Ky.** Amdg. '06 ch.18 §1, 6, 8, 9, 10, 13, 14, 29 rel. to State Bd. of Control for Charitable Institutions: 4 [3] members; *bipartisan*; fiscal year; *receiver* [steward] at institution; counsel; reception and discharge of patients; certification to Auditor of Public Accounts; surplus receipts. 7§  
'08 ch.28, Mar.21
- b     **Mass.** Amdg. R.L. ch.84 §2: State Bd. of Charity divided into Division of State Adult Poor and Division of State Minor Wards; each to appoint supt. to be executive officer.                      '08 ch.598, June 8

## CHARITIES

2142

- c N. Y. Amdg. charities law '96 ch.546 §41: office of deputy fiscal supervisor created. '08 ch.54, Mar.23
- d O. Gov. to appoint, annually, committee of 6 women to visit from time to time benevolent and penal institutions; to investigate welfare of inmates; report to Bd. of State Charities. '08 p.349, May 9
- e Okl. Comr. of Charities and Corrections to inspect state, local and private penal and charitable institutions annually; powers; employees. 16§ '08 ch.23 art.1, Mar.23
- f Va. Establishing Bd. of Charities and Corrections: 5 members, appointed by Gov. and Senate, term 5 years; to have visitorial and advisory duties with reference to charitable, correctional and reformatory institutions of state and localities and of chartered associations; annual report to Gov. 16§ '08 ch.276, Mar.13

2143

### State institutions (general)

- a O. Amdg. sundry § of R.S. rel. to state benevolent and correctional institutions: admissions; reports; transfers. Rep.'90 p.334. 10§ '08 p.323, May 9
- b Va. Msdr. to abduct or aid in escape of inmate of hospital for insane, deaf, dumb or blind. '08 ch.61, Feb.20

2149

## Poor relief

*See also* 260, Vagrancy; 2406, Pensions and relief

2152

### Burial

*See also* 2411, Pensions and relief

- a La. Parish may bury parochial pauper at expense of not to exceed \$15. '08 ch.250, July 8
- b O. Amdg. R.S. §1500a: township to pay in first instance for burial of pauper dying in state benevolent institution; to be reimbursed by infirmary directors of county from which pauper came. '08 p.357, May 9

2153

### Care of aged

- a Miss. Authorizing bd. of supervisors to donate \$300 for building old ladies home at Jackson. '08 ch.134, Mar.20

2155

## Poorhouses

2157

### Local institutions

- a O. Amdg. '06 p.187 §1: where county infirmary destroyed or condemned county comrs. may issue \$90,000 [\$50,000] of bonds in anticipation of tax levy. '08 p.138, Apr.22
- b O. Providing for religious services in county infirmaries and jails, city prisons and workhouses. 3§ '08 p.225, Apr.28
- c Va. Amdg. C. §834d: supervisors authorized to contract loans for erection of poorhouse. '08 ch.193, Mar.12

2158

## Unemployed

*See also 260, Vagrancy*

- a **Mass.** Authorizing Chief of Bureau of Statistics of Labor to furnish weekly bulletins of information rel. to demand for employment to city and town clerks; latter to post same. 3§ '08 ch.306, Mar.27

2160

## Sick and disabled

*See also 1020, Communicable diseases*

2163

## Care of sick poor

- a **Mass.** Amdg. R.L. ch.85 §15 rel. to reimbursement by commonwealth of expense incurred by city or town for sick poor removed to state hospital. '08 ch.555, May 28

2165

## Hospitals

*See also 1042, Tuberculosis hospital*

2168

## Local hospitals

- a **O.** Authorizing township trustees to compensate hospital free for all or for indigent inhabitants of township. '08 p.72, Apr.8
- b **O.** Authorizing county to erect and maintain hospital; referendum. 11§ '08 p.486, May 9

2170

## Maternity hospitals

- a **O.** State Bd. of Health to license maternity boarding houses and lying-in hospitals; regulations; inspection; penalty. 15§ '08 p.13, Feb.18

2172

## Children

*See also 346, Reform schools; 371, Juvenile offenders; 445, Guardianship; 474, Family; 2118, Employment*

- a **Md.** Msdr. to import pauper, vagrant, criminal or defective child into state to place in home in state unless bond be given for maintenance. 3§ '08 ch.42 (p.92), Mar.3
- b **N. Y.** Amdg. Crim.P. §839: where parents neglect, bastard to be supported by county, city or town [where born] *chargeable therewith under poor law*. '08 ch.248, May 11
- c **O.** Amdg. R.S. §91 rel. to power of Gov. to pardon or commute or suspend sentence of insane or pregnant convict. '08 p.3, Jan.8
- d **R. I.** Amdg. G.L. ch.115 §1-3.7 rel. to cruelty to children: *District* [Probate] Court to have jurisdiction; definition of cruelty; commitment, religious beliefs; costs. 4§ '08 ch.1540, Apr.24
- e **R. I.** To compel support by parent of delinquent, neglected or dependent child. 6§ '08 ch.1541, Apr.24
- f **Va.** Amdg. C. §3795a: unlawful to endanger health or morals of child. '08 ch.282, Mar.13
- g **Va.** Amdg. '02 ch.591 §1-3: rel. to commitment of delinquent and neglected children. Adds §6. 4§ '08 ch.348, Mar.14



## CHARITIES

2177

### State institutions

- a N. J. Appropriating \$6000 for purchase of Arthur Home (for destitute boys) at Summit. '08 ch.290, Apr.15
- b Okl. Establishing Whitaker Orphan Home at Pryor Creek for white children and colored orphan home in Logan county; management; admission. 18§ '08 ch.70 art.6, May 18

2179

### Local and private institutions

- a O. Amdg. R.S. §929-34, 2181, 2183, 3137 rel. to county children's home and treatment of dependent and neglected children. 13§ '08 p.184, Apr.24

2182

### Placing out. Care of infants

- a N. Y. Amdg. state charities law '96 ch.546 §137 rel. to disposition of infants of females committed to N. Y. State Training School for Girls. '08 ch.240, May 7

2183

## Defectives

*See also 2220 Education*

- a N. J. Transfer of epileptic, insane and feeble-minded inmates of state institutions to proper institutions. 6§ '08 ch.263, Apr.14
- b N. C. Amdg. Revisal '05 §4189 rel. to State School for Blind and Deaf: county to be charged for each pupil not to exceed \$20 per year and traveling expenses. '08 ch.69, Jan.31

2184

## Deaf and dumb

2186

### State institutions

- a La. Changing name of La. Institute for the Deaf and Dumb to La. State School for the Deaf. '08 ch.239, July 8
- b O. Amdg. R.S. §659-61: name of Institution for Education of Deaf and Dumb changed to State School for Deaf; for persons too deaf to be educated in public schools; deaf-blind pupils; time of stay. 4§ '08 p.598, Mar.31
- c Okl. Establishing Okl. School for Deaf. 9§ '08 ch.70 art.2, May 14

2188

## Blind

- a Md. Establishing Md. Workshop for Blind in Baltimore; govt.; citizens of state over 18 eligible for admission; \$5000 annually. 5§ '08 ch.566(p.94), Apr.8
- b N. J. Gov. to appoint comn. of 5 to investigate condition of blind and amelioration thereof. 3§ '08 p.731, Apr.9
- c N. C. Requiring blind children to attend school between ages of 7 and 17. 5§ '08 ch.141, Feb.1
- d O. Care of indigent blind by county; levy; blind relief comn.; requisites to entitle to relief; limit of \$150 per year per person. 10§ '08 p.56, Apr.3  
Amended. '08 p.256, Apr.3

2188

- e O. Establishing Ohio Comn. for the Blind to consist of 5 appointees of Gov., terms 5 years, and supt. of State Institution for the Blind at Columbus; to keep complete register of blind of state with statistics; to aid blind to find employment, to teach them industries and ameliorate condition of aged; may establish schools and workshops; annual report. 12§ '08 p.362, May 9
- f R. I. State Bd. of Education authorized to continue instruction of blind at home; \$2500 annually. '08 ch.1526, Apr.9

2191

#### State institutions

- a La. Changing name of La. Institute for the Blind to La. State School for the Blind. '08 ch.238, July 8

2193

#### Insane

*See also* 60, State institutions; 446, Guardianship

- a Mass. Directing State Bd. of Insanity to investigate best methods of providing for and treatment of insane; report May 1, 1908. '08 r.34, Mar.14
- b Mass. Gov. to appoint comn. to consist of 1 member of bar and 2 alienists to revise and codify insanity laws. '08 r.62, Apr.8

2194

#### State boards and officers

- a N. Y. Amdg. insanity law '96 ch.545 §18 rel. to duties of bd. of alienists for examination of mentally defective immigrants. '08 ch.213, May 6

2198

#### State asylums

- a La. Joint legis. committee of 5 to investigate workings of insane asylums at Jackson and Pineville and ascertain if appropriations are sufficient. '08 ch.10, June 5
- b Mass. State Bd. of Insanity to prepare plans and secure options on sites for hospital for acute and curable mental patients in metropolitan district. '08 ch.626, June 12
- c Okl. Establishing East Okl. Hospital for Insane; management. 22§ '08 ch.70 art.4, May 6
- d Va. Amdg. C. §1666 rel. to state hospitals for insane: fund of supt. for current expenses. '08 ch.184, Mar.11

2200

#### Local asylums and officers

- a Mass. Authorizing city of Boston to establish observation wards for transitory mental afflictions. '08 ch.627, June 12
- b N. J. Bond issue for erection of buildings for consolidated county hospitals for insane. 3§ '08 ch.192, Apr.13
- c O. Authorizing county comrs. to establish detention hospital for alleged insane; commitment; observation; care. 3§ '08 p.210, Apr.27

2203

#### Support. Right of admission

- a La. Amdg. R.S. §1770 rel. to charge for maintenance of insane persons in asylums. '08 ch.248, July 8

## EDUCATION

2203

- b N. Y. Amdg. insanity law '96 ch.545 §74 subd.2 rel. to state hospitals for insane: inmate may be paroled not exceeding *6 months* [30 days]; *voluntary patients*. Adds §79. '08 ch.261, May 11
- c R. I. Amdg. G.L. ch.82 §48 which authorizes reception of pay-patients at State Hospitals for Insane. '08 ch.1557, May 1

2204

### *State support*

- a Ala. Amdg. C.'96 §2574: state to allow *hospitals* [Bryce Insane Hospital] \$3.50 [\$3] per day for indigent or criminal insane person. '07 (ex.sess.) p.164, Nov.23
- b Va. Amdg. '06 ch.115 §1: citizen of state committed to state insane asylum not to be charged [where estate insufficient to support family or less than \$2000]. '08 ch.401, Mar.16

2205

### Inquest. Commitment. Discharge

2207

### *Discharge. Parole. Recommitment*

- a N. Y. Amdg. insanity law '96 ch.545 §74 subd.2 rel. to state hospitals for insane: inmate may be paroled not exceeding *6 months* [30 days]; *voluntary patients*. Adds §79. '08 ch.261, May 11
- b R. I. Amdg. G.L. ch.82 §50: inmate of State Hospital for Insane may be released in custody of guardian for *6 months* [60 days] and returned within such period without further commitment. '08 ch.1538, Apr.23

2210

## Epileptics

- a Mass. Epileptic and feeble-minded in state institutions to be supported by state instead of cities and towns. '08 ch.629, June 12

2213

### *State asylums and colonies*

- a Ala. Establishing Ala. Epileptic Colony: Gov. to appoint 3 comrs.; term 4 years; to select site and govern colony; admission; support of patients; transfer from other institutions; \$20,000; \$10,000 annually. 25§ '07 (ex.sess.) p.164, Nov.30

2215

## Feeble-minded

*See also 446, Guardianship*

- a N. J. State Village for Epileptics at Skillman to care for indigent feeble-minded men over 21. '08 ch.311, Apr.16

2220

## Education. Science. Culture

*See also 2183-2218, Defectives: deaf, dumb, blind etc.*

- a Cal. Amdg. Const. 1879 art.9 §6 rel. to public school system. Adopted Nov. 1908. '07 p.1275, Mar.6
- b Ky. Creating Educational Comn. to consist of 11 officials, including Gov., representative from each house of Legis. and certain educational officers: to investigate school system and educational interests of state; comparative study of other systems; report with recommendations to next Gen. Assembly. 6§ '08 ch.65, Mar.17



2220

- c **N. Y.** Amdg. '06 ch.678 §4 rel. to construction of State Education Building: employment of other than State Architect authorized.  
'08 ch.30, Mar.14
- d **O.** Amdg. R.S. §3969, 3981: action of county comrs. when bd. of education fails to supply proper school facilities; vacancies on bd. of education.  
'08 p.51, Mar.31
- e **O.** Amdg. R.S. §4007: bd. of education of city may establish normal school, vacation schools, school gardening and play grounds.  
'08 p.85, Apr.9
- f **W. Va.** Amdg. C. ch.45: education law. 265§  
'08 ch.27, Mar.6

2223

## Elementary and secondary education

- a **Ky.** Govt. and regulation of common schools. 17§  
'08 ch.56, Mar.24

2225

## Meetings. Elections. Suffrage

- a **Okl.** Amdg. '05 ch.33 art.3 §1, S.'03 §6158: time of district school meetings; district school officers. 3§  
'08 ch.34 art.3, May 19

2227

## Districts. Formation. Division. Consolidation

*See also 2272, Consolidation of schools*

- a **O.** Amdg. R.S. §3923 which abolishes joint subschool districts: distribution of territory.  
'08 p. 105, Apr.15
- b **O.** Amdg. R.S. §3893: on annexation of territory to city or village Probate Court may decide as to transfer of school property where bds. of education unable to agree.  
'08 p.117, Apr. 15
- c **Va.** Amdg. C. §1470 rel. to formation of school districts: approval of State Supt. not requisite.  
'08 ch.42, Feb.15

2228

## Officers. Boards

2229

## State

- a **Cal.** Submitting amdt. to Const. 1879 art.9 §7: composition of State Bd. of Education; uniform textbooks. Rejected Nov. 1908.  
'07 p.1369, Mar.14
- b **La.** Amdg. Const. 1898 art.249: salary of State Supt. of Public Education \$5000 [\$2000 with expenses not to aggregate more than \$4000]. 3§. Adopted Nov. 1908.  
'08 ch. 28, June 20
- c **Md.** Amdg. '06 ch.356 §17d: salary of Assistant Supt. of Public Education \$2000 [\$1500].  
'08 ch.494 (p.225), Apr.8
- d **Miss.** Salary of State Supt. of Education \$2500. '08 ch.145, Feb.26
- e **O.** Joint legis. committee of 6 to investigate charges against Bd. of State School Examiners and State Comr. of Common Schools as to irregularities in issuing teachers certificates and appointing school officers.  
'08 p.620, Feb.6
- f **R. I.** Amdg. G.L. ch.51 §14 rel. to payment of expenses of Bd. of Education.  
'08 ch.1534, Apr.21
- g **Va.** Amdg. C. §1433, 1437-38 rel. to salary and duties of division supt. of schools. 3§  
'08 ch.292, Mar.14

2230

*County*

- a **La.** Amdg. '04 ch.167 §8 rel. to duties of parish school bd. and supt. of schools. '08 ch.49, June 20
- b **Minn.** Submitting amdt. to Const. 1857 art.7 §7: educational qualifications for county supts. of schools; Legis. to fix. Rejected Nov. 1908. '07 ch.480, Apr.24
- c **N. J.** County supt. of schools to be furnished office at county seat. '08 ch.317, Apr.16
- d **O.** Amdg. R.S. §4029 subd.2 rel. to compensation of clerk of bd. of county school examiners. '08 p.116, Apr.15
- e **O.** Amdg. R.S. §4075 rel. to compensation of county school examiners. '08 p.240, Apr.30

2231

*District, township and municipal*

- a **O.** Amdg. R.S. §3920: members of township bd. of education to receive \$2 each meeting attended, not to exceed 10. '08 p.105, Apr.15
- b **O.** Authorizing bd. of education of district having depositories of school moneys to dispense with treasurer; clerk to act. Adds R.S. §4042a. '08 p.205, Apr.27
- c **O.** Payment of expenses of members of bds. of education of city school districts. '08 p.322, May 9
- d **O.** Amdg. R.S. §3897 rel. to city bds. of education: number of members; election from districts in city over 50,000. '08 p.585, May 20
- e **Okl.** School bd. on city becoming of 1st class to hold over till next regular election. '08 ch.12 art.2, Apr.11
- f **Okl.** Amdg. '05 ch.33 art.3 §1, S.'03 §6158: time of district school meetings; district school officers. 3§ '08 ch.34 art.3, May 19
- g **R. I.** City and town supts. of schools to hold certificate of qualification of State Bd. of Education. Adds new section to '03 ch.1101. '08 ch.1560, May 1
- h **Va.** Amdg. C. §1459: federal, *state or county* officer or deputy ineligible for district school trustee. '08 ch.147, Mar.5
- i **Va.** Amdg. C. §1526 rel. to powers of school bd. of city *or town constituting separate district*: may fix salary of clerk. '08 ch.153, Mar.10
- j **Va.** Rep. C. §1468, 1500 rel. to corporate power of school bd. and number of teachers in school. '08 ch. 396, Mar.16
- k **W. Va.** Amdg. C. §1566: minimum compensation of teachers in district school according to grade of certificate held; compensation of district bds. of education. '08 ch.26, Feb.18

2233

**Buildings. Grounds**

- a **Ala.** Authorizing cities and towns to convey to state buildings and grounds for school purposes. '07 (ex.sess.) p.161, Nov. 30
- b **Ill.** Amdg. '89 p.258 §10 rel. to election to select site of school-house: where no locality receives majority bd. of education may select; power of eminent domain. '08 p.95, Feb. 24
- c **Okl.** Authorizing construction of schoolhouses to be paid for on rental plan. 3§ '08 ch.77 art.4, May 5

2233

- d **Okl.** Authorizing school bds. to issue bonds, not to exceed 5% of assessed valuation, for erection and equipment of schoolhouses.

'08 ch.77 art.5, May 29

- e **Va.** Amdg. '06 ch.255 §1, 5, 8 rel. to issue of bonds by school districts for erection of schoolhouses. 3§

'08 ch.82, Feb.25

- f **Va.** Amdg. '06 ch.252 authorizing district *and city* school bds. to borrow money from literary fund for erection of schoolhouses. 8§

'08 ch.83, Feb.25

- g **Va.** County school bd. may loan funds to district school bds. to build schoolhouses.

'08 ch.223, Mar.12

- h **Va.** Amdg. C. §1447 rel. to grant or devise for school purposes: where not exceeding \$2000 may be applied to erection of schoolhouse or payment of debt thereon.

'08 ch.393, Mar.14

2235

*Sanitation*

- a **Va.** Rel. to school buildings: required size of rooms, ventilation, exits, stairways, lighting, outhouses and water-closets.

'08 ch.187, Mar.11

2237

**General school finance**

For finances of state educational institutions, *see* 2333

- a **Ala.** Authorizing county, city or town to appropriate money for support of state school within boundaries. '07 (ex.sess.) p.176, Nov.30

- b **N. J.** Providing for recovery of money or property of township or school district misappropriated or recovery of damages therefor. 4§

'08 ch.162, Apr.10

- c **N. J.** Amdg. '03 (ex. sess.) ch.1 §185 rel. to custodian of moneys in school district in more than 1 municipality.

'08 ch.223, Apr.13

- d **O.** Authorizing bd. of education of district having depositories of school moneys to dispense with treasurer; clerk to act. Adds R.S. §4042a.

'08 p.205, Apr.27

- e **O.** Amdg. R.S. §2834b: bds. of education [except in cities of 1st class, of 1st, 2d or 3d grade] not to make appropriation unless money in proper fund.

'08 p.520, May 9

- f **Va.** Amdg. '06 ch.137 which requires county and district school bds. to publish annually statement of receipts and disbursements.

'08 ch.310, Mar.14

- g **Va.** Amdg. C. §1517: trustees of school district to audit county treasurer's commissions for handling school moneys.

'08 ch.325, Mar.14

- h **Va.** Amdg. C. §1466a rel. to sale or exchange of school property by county, *district* or city school bd.: sale to be to highest bidder.

'08 ch.350, Mar.14

2240

*Funds. Lands. Taxes*

*See also* 774, Public lands

- a **La.** Amdg. '02 ch.214 §65: parish *supt. of public schools* [treasurer] to be treasurer of school funds; *bond; no compensation; depositories.*

'07 ch.17, Dec.2

- b **La.** Authorizing parish bds. of school directors to donate to U. S. right of way across school lands for canal purposes.

'08 ch.14, June 15



2240

- c La. Amdg. '02 ch.214 §63 rel. to rate of school tax to be levied by local authorities. '08 ch.27, June 20
- d La. Amdg. R.S. §2962 rel. to lease of parish school lands: referendum as to sale of timber or lease of mineral rights. '08 ch.129, July 2
- e La. Amdg. '02 ch.214 §65: parish *supt. of public schools* [treasurer] treasurer of school funds; *bonds; depositories*. '08 ch.232, July 8
- f La. Memorializing Cong. to give land in state owned by U. S. to state for school purposes. '08 ch.272, July 9
- g Miss. Authorizing municipality not composing separate school district to levy tax for schools within its limits. '08 ch.127, Mar.18
- h N. J. County bd. of taxation may allow increase of tax to 10c on \$100 for county purposes, 30c on \$100 for school purposes. '08 ch.182, Apr.11
- i N. D: Amdg. Const. 1889 §158 rel. to sale of school lands; provisos. Adopted Nov. 1908. '05 p.350, Mar.6; '07 p.457, Mar.23
- j Okl. Authorizing payment to State Treasurer of money appropriated by U. S. in enabling act, for use of common schools. '07 ch.76 art.1, Dec.17
- k Okl. Appraisalment of land granted to state for educational and public building purposes. 3§ '08 ch.49 art.2, Apr.8
- n Tex. Amdg. Const. 1876 art.7 §3: *majority* [ $\frac{2}{3}$ ] of taxpayers of school district may vote additional tax of 50c [20c] on \$100. Adopted Nov. 1908. '07 p.413, Mar.20
- p U. Submitting amdt. to Const. 1895 art.13 §7: tax rate not to exceed 8 mills, 4  $\frac{1}{2}$  for *gen. purposes*, 3 for *district schools*,  $\frac{1}{2}$  for *high schools*. 3§. Rejected Nov. 1908. '07 p.272
- q Va. Amdg. C. §833: duties of bd. of supervisors rel. to county and school levies. Adds §833a. '08 ch.177, Mar.11
- r Va. Amdg. C. §1506 rel. to rate of levies allowed for county and district school purposes. '08 ch.210, Mar.12
- s Va. Amdg. C. §1449, 1485, 1514, 1518, 1520 rel. to county school funds and taxes. 5§ '08 ch.309, Mar.14
- t W. Va. Method of making levies by County Court or school bd.; election for additional levy; penalties for illegal expenditure of public moneys, incurring illegal obligations and laying illegal levy. 10§ '08 ch.9, Feb.26

2241

*Investment of funds*

- a Neb. Amdg. Const. 1875 art.8 §9 rel. to investment of school funds: may be invested in *registered school district bonds and such other securities as Legis. may direct*. Adopted Nov. 1908. '07 ch.201, Mar.5
- b Nev. Referring to Legis. of 1907 amdt. to Const. 1864 art.11 §3: school funds may be invested in bonds of any city or county in U. S. Not repassed by the Legis. of 1907. '05 p.277, Mar.13
- c N. Y. Amdg. state finance law '97 ch.413 §83 rel. to comrs. for loaning U. S. deposit fund: Comptroller to act when vacancy exists. '08 ch.188, Apr.29

2241

- d N. D. Amdg. Const. 1889 §162; school funds may be invested in drainage bonds or bonds of states not having repudiated indebtedness. Adopted Nov. 1908. '05 ch.101, Feb.25; '05 p.351, Feb.25; '07 p.456, Mar.23
- e Okl. Authorizing Land Comrs. to invest and deposit permanent school funds. 5§ '07 ch.76 art.2, Dec.18
- f Va. County school bd. may loan funds to district school bds. to build schoolhouses. '08 ch.223, Mar.12
- g W. Va. Investment of sinking funds of localities and school districts. 5§ '08 ch.11, Feb.21

2242

*Apportionment*

- a Ky. Amdg. S. '03 §4375: excess of money apportioned to school may be used to extend term or supplement teachers' salaries. '08 ch.71, Mar.19
- b N. Y. Amdg. consolidated school law '94 ch.556 §12, 13 rel. to time of apportionment of school moneys. '08 ch.365, May 19
- c Okl. Time and basis of apportionment of state school moneys. Rep. '08 ch.76 art.4. 3§ '08 ch.76 art.3, Mar.21
- d Okl. Apportionment among certain educational institutions of income of land set apart by enabling act and Const. 4§ '08 ch.34 art.2, May 10
- e Va. Rep. C. §1508 which required division supt. of schools to deposit warrant for district's share of school moneys with county treasurer '08 ch.155, Mar.10
- f Va. Amdg. C. §1509 rel. to payment of state school moneys by county treasurer. '08 ch.329, Mar.14
- g Va. Amdg. C. §1507 rel. to time and manner of apportionment of state school moneys by Auditor of Public Accounts. '08 ch.330, Mar.14

2245

*Debts*

- a Miss. Authorizing municipalities to issue bonds for school purposes. '08 ch.101, Mar.11
- b Nev. Amdg. '07 ch.59 §10 rel. to issuing bonds for certain purposes by school district [having over 100 pupils]. '08 ch.19, Feb.8

2246

*Negroes*

*See also 2247, 2330*

- a Okl. Requiring public schools and colleges to be conducted on plan of separation of white and colored persons with equal facilities. 7§ '08 ch.77 art.10, May 5

2247

*Teachers*

2253

*Employment. Pay*

- a Va. Rep. C. §1468, 1500 rel. to corporate power of school bd. and number of teachers in school. '08 ch.396, Mar.16

## EDUCATION

2254

### *Salaries*

- a Ky. Amdg. S.'03 §4375: excess of money apportioned to school may be used to extend term or supplement teachers' salaries.  
'08 ch.71, Mar.19
- b W. Va. Amdg. C. §1566: minimum compensation of teachers in district school according to grade of certificate held; compensation of district bds. of education.  
'08 ch.26, Feb.18

2255

### *Pensions*

- a La. Benefits of Carnegie retiring fund allowed professors of State University.  
'08 ch.219, July 3
- b Md. Amdg. C.'04 art.77 §58 rel. to state pension for teachers: pensioner must be without means of comfortable support; county school comrs. to make recommendation.  
'08 ch.605 (p.226), Apr.6
- c Mass. Authorizing cities and towns to establish pension funds for teachers; referendum. 4§  
'08 ch.498, May 6
- d Mass. Pensions for teachers in public day schools of Boston. Amds. R.L. ch.12 §54. 9§  
'08 ch.589, June 5
- e N. Y. Establishing retirement fund for teachers of Cohoes. 10§  
'08 ch.332, May 19
- f Va. State retirement fund for public school teachers; under supervision of State Bd. of Education; 1% tax on salaries, \$5000 annual appropriation, gifts. 7§  
'08 ch.313, Mar.14

2258

### *Qualifications*

- a Miss. Providing for issuing of teachers license where examination papers have been destroyed by burning of courthouse.  
'08 ch.133, Mar.21

2259

### *State credentials*

- a Miss. Amdg. C.'06 §4555 rel. to teachers life certificate: physics among subjects to be passed.  
'08 ch.201, Feb.14
- b O. Joint legis. committee of 6 to investigate charges against Bd. of State School Examiners and State Comr. of Common Schools as to irregularities in issuing teachers certificates and appointing school officers.  
'08 p.620, Feb.6
- c O. Amdg. R.S. §4073, 4081 rel. to teachers certificates: renewal; without examination; temporary; fees of examiners. '08 p.350, May 9
- d Okl. Teachers grade certificates, where valid.  
'08 ch.77 art.1, Mar.20

2261

### *Certificates to graduates*

- a La. Amdg. '02 ch.214 §59 rel. to institutions whose graduates are entitled to 1st grade certificates: those maintaining teachers training depts. under curriculum of State Bd. of Education included.  
'08 ch.174, July 3
- b W. Va. Amdg. C. §1733 rel. to State Normal School: diploma equivalent to 1st grade certificate for 5 years; branches to have same privileges as main school.  
'08 ch.23, Feb.14



2261

- c **W. Va.** Amdg. C. §1700: diploma of W. Va. University equivalent to certificate of 1st grade for 5 years provided holder has taken 6 courses in education dept. of university. '08 ch.24, Feb.14
- d **W. Va.** Amdg. C. §1757: diploma of W. Va. Colored Institute equivalent to 1st grade certificate for 5 years. '08 ch.25, Feb.25

2263

### Institutes

- a **O.** Amdg. R.S. §4091 rel. to compensation of teachers *and supts.* attending institute: to receive \$2 per day if school not in session. '08 p.451, May 9
- b **Okl.** County normal institutes. Rep. S.'03 §6290-96; '05 ch.33 art.10. 15§ '08 ch.77 art.7, May 12

2266

### Normal schools

- a **Ky.** Generally amdg. '06 ch.102 which established system of state normal schools. 6§ '08 ch.62, Mar.24
- b **Md.** Establishing State Normal School No. 3 for colored teachers to be located in Baltimore; annual appropriation \$5000. Adds C.'04 art.77 §189, 190. '08 ch.599 (p.230), Apr.8
- c **Va.** State Bd. of Education to designate high schools where normal school training to be given; \$15,000 annually. 4§ '08 ch.67, Feb.25
- d **W. Va.** Amdg. C. §1733 rel. to State Normal School: diploma equivalent to 1st grade certificate for 5 years; branches to have same privileges as main school. '08 ch.23, Feb.14

2267

### Attendance

Colored pupils, *see* 2246

2270

### Compulsory attendance. Truancy

*See also* 2118, Employment (children)

- a **Ky.** Compulsory attendance at school of children between 7 and 14; regulations; truant officers and schools. Rep.'04 ch.94. 13§ '08 ch.68, Mar.19
- b **N. J.** Amdg. '03 (ex. sess.) ch.1 §153: child between 7 and 17 [14] required to attend school; *if over 15 and graduated from grammar course and regularly employed, excused; if under 17 and graduated from grammar course but not regularly employed must attend high or manual training school.* '08 ch.231, Apr.13
- c **N. C.** Amdg. '05 ch.213 §2, 5 rel. to compulsory attendance at school of Indians: for 10 [9] months of year; applies to those of 1/16 [1/8] blood. '08 ch.59, Jan.31
- d **N. C.** Requiring blind children to attend school between ages of 7 and 17. 5§ '08 ch.141, Feb.1
- e **Okl.** Compulsory attendance at school of children between 8 and 16; enumeration; free books for needy children; county to pay child having dependent widowed mother amount of wages earned by child. 5§ '08 ch.34 art.1, Apr.10
- f **Va.** Compulsory education law; to be in force in city or county where adopted by election. 8§ '08 ch.364, Mar.14

## EDUCATION

### 2272 Place of attendance. Conveyance of pupils. Consolidation of schools

*See also 2227, Districts*

- a O. Amdg. R.S. §3922: subdistrict school having attendance of 12 to be centralized only on vote of people; transportation on centralization. '08 p.203, Apr.24
- b O. Transportation of pupils in village school districts with attached territory. '08 p.234, Apr.29
- c O. Amdg. R.S. §3934 rel. to conveyance of pupils of special school district to school of district *or adjoining district*; transportation not required for less than 1 [1½] mile from school. '08 p.265, May 1
- d Okl. Amdg. '05 ch.33 art.1 §1 rel. to consolidation of school districts: vote of *majority* [¾] of electors of each district requisite. '08 ch.77 art.3, May 2
- e Va. Amdg. C. §1492, 1493 rel. to admission of children of non-residents into schools of district. '08 ch.400, Mar.16

### 2274 School census

- a N. Y. Requiring cities and school districts to take school census, daily in city of 1st class, annual elsewhere; State Comr. of Education to supervise and enforce. Rep.'95 ch.550. 7§ '08 ch.249, May 11
- b O. Amdg. R.S. §4030 rel. to annual school census: statistics to be ascertained. '08 p.80, Apr.9
- c Va. New census when boundaries of school district changed. Adds C. §1463a. '08 ch.161, Mar.11

### 2277 Students. Discipline

- a O. Abolishing fraternities and sororities in public schools; enforcement. 3§ '08 p.253, Apr.30

### 2280 Fire drills

- a O. Requiring monthly fire drills in school of 50 pupils; exit doors to be kept unlocked in school hours; instruction on fire dangers from book prepared by State Fire Marshal to be given 30 minutes per month to pupils between 6 and 14 years; penalties. 4§ '08 p.231, Apr.28

### 2281 Physical condition. Medical inspection

- a La. State Bd. of Health and Supt. of Education to furnish schools with appliances to test hearing and sight of pupils; latter to be tested during first school month and defects reported to parents. '08 ch.292, July 9
- b Mass. Authorizing State Bd. of Education to expend \$800 annually instead of \$500 to aid medical inspection of schools. '08 ch.189, Mar.10
- c Mass. Rep.'06 ch.502 §7 which limited expenditures for medical inspection of public schools. '08 ch.412, Apr.17
- d Va. State Supt. of Public Instruction to send appliances to test pupils' hearing and sight to schools; State Bd. of Health to approve; test by teacher and records; parents to be notified of defects; \$300 annually. '08 ch.377, Mar.14

2282

## Textbooks. Supplies

*See also 2360, School libraries*

- a **Kan.** Amdg. G.S.'01 §6467 rel. to establishment of public agencies at county seats *and cities* for sale of schoolbooks.  
'08 (ex.sess.) ch.68, Jan.30
- b **La.** Msdr. for school official or teacher to accept gift from publisher of textbooks or manufacturer of school supplies.  
'08 ch.287, July 9
- c **O.** Amdg. '96 p.282 §5 rel. to adoption of textbooks: duties of school bds.; to be adopted for 5 years; school supt., supervisor or principal not to act as sales agent.  
'08 p.460, May 9
- d **Okl.** Creating Textbook Comn. to consist of Gov. and 6 members appointed by Gov. and Senate for 5 years; to establish uniform textbooks in schools at lowest prices; bids; points considered in adoption; price not to exceed that elsewhere; books adopted must be used. 27§  
'08 ch.77 art.8, May 18
- e **Va.** Amdg. C. §1472 which prohibits officer or teacher having pecuniary interest in school supplies: merchant selling such supplies in regular course of business without employing agents to solicit such business, excepted.  
'08 ch.196, Mar.12

2283

## Free textbooks

- a **O.** Amdg. R.S. §4022 subd.9 rel. to furnishing textbooks free to indigent children.  
'08 p.477, May 9
- b **Okl.** Compulsory attendance at school of children between 8 and 16; enumeration; free books for needy children; county to pay child having dependent widowed mother amount of wages earned by child. 5§  
'08 ch.34 art.1, Apr.10

2284

## Uniformity

- a **Cal.** Submitting amdt. to Const. 1879 art.9 §7: composition of State Bd. of Education; uniform textbooks. Rejected Nov. 1908.  
'07 p.1369, Mar.14
- b **La.** Amdg. '02 ch.214 §3 rel. to adoption of uniform textbooks by State Bd. of Education: other things equal preference to be given to La. publications.  
'08 ch.231, July 8

2285

## Supplies

- a **La.** Msdr. for teacher to accept gift from manufacturer or dealer in school supplies.  
'08 ch.52, June 22

2288

## Curriculum

*Agriculture, see 2343*

2310

## Physiology. Alcohol. Narcotics

- a **S. C.** Requiring teaching of effects of alcohol and narcotics in public schools. 3§  
'08 ch.477, Feb.25



Trades and manual training, *see* 2350

2327                    **High schools and academies**

- a     **Kan.** Amdg. '05 ch.397 §4, 10 rel. to high school in district or city under 16,000: county high school fund to be apportioned according to *estimated cost of maintenance* [average attendance] of high school; election for adoption. 3§                    '08(ex.sess.) ch.69, Jan.27
- b     **O.** Amdg. '98 p.281 §1 rel. to establishment of joint township high schools: election of committee; levy not to exceed 5 mills.                    '08 p.462, May 9
- c     **S. C.** Amdg. '07 ch.245 §1-3, 7, 10 rel. to high schools in territorial units *not containing places of 2500*: election on petition of 40% of freeholders; tax; apportionment of money; appropriation. 5§                    '08 ch.515, Feb.27

2328                    **State aid**

- a     **Mass.** Amdg. '06 ch.200 §1 rel. to state aid for high school in town of less than 500 families.                    '08 ch.427, Apr.21

2330                    **Higher education**

- a     **O.** Amdg. R.S. §3726 rel. to colleges having right to confer degrees: must have \$25,000 [\$5000] of property; State Comr. of Common Schools to certify to equipment and courses.                    '08 p.262, May 1
- b     **O.** Authorizing levy for college located in village school district in return for free tuition for graduates of village high school.                    '08 p.519, May 9

2332                    **State institutions (general)**

- a     **Ga.** Amdg. '06 p.10 §3: chairman of bd. of trustees of Agric. College ex officio member of bd. of trustees of University of Ga.                    '08 p.105, July 22
- b     **Ky.** Changing name of Agric. and Mechanical College of Ky. to State University, Lexington, Ky.; depts. of law and medicine established; free students; bipartizan bd. of trustees; teachers county certificates may be issued to students. Amds. S. '03 §28. 14§                    '08 ch.3, Mar.16
- c     **La.** Diplomas issued by State University and Agric. and Mechanical College to be recognized on par with those of any other institution of learning.                    '08 ch.93, July 1
- d     **Miss.** Salary of chancellor of State University \$3500 [\$5000]; of presidents of Industrial Institute and College of Miss., and Agric. and Mechanical College of Miss. \$3500 [\$4500].                    '08 ch.290, Mar.5
- e     **O.** Amdg. '78 p.126 §9 rel. to compensation of professors of State University: limit of \$2500 removed.                    '08 p.602, Apr.15
- f     **Okl.** Amdg. S.'03 §6381: 10 [6] regents of State University.                    '07 ch.77 art.2, Dec.21
- g     **Or.** Amdg. Ann. C.&S. §3529: annual appropriation for University of Or. \$125,000 [\$47,500]. Referendum demanded, and law ratified by popular vote June 1, 1908.                    '07 ch.64, Feb.20
- h     **Va.** Amdg. C. §1541: rights of corp. formed under gen. law extended to University of Va.; may accept and administer trust.                    '08 ch.256, Mar.13

2332

- i **Va.** Amdg. C. §1556: University of Va. may not *issue obligations secured by deed of trust on its real estate* [contract debt] without consent of Gen. Assembly previously obtained. '08 ch.257, Mar.13
- j **Va.** Comn. of 7 appointed by Gov. to devise method for maintenance, management and expansion of higher educational institutions so as to avoid educational duplication and financial waste; report next session; \$500. 4§ '08 ch.272, Mar.13

2333

*Finance. Lands. Support*

*See also* 774, Public lands; 2237, School finance

- a **Fla.** Submitting amdt. to Const. 1885 art.12 by adding §16: 1 mill tax for certain institutions of learning. Rejected Nov. 1908. '07 p.767, June 3
- b **O.** Authorizing bond issue to construct additional buildings for munic. university. 4§ '08 p.133, Apr.22

2335

*Admission. Scholarships. Tuition*

- a **La.** Amdg. '02 ch.152 §1: State University to charge no tuition of residents *unless special, graduate or professional students*. '08 ch.227, July 8

2337

**Private institutions**

*See also* 583, Corporations not for profit; 812, Exemptions from general property tax

- a **O.** Authorizing college to retire stock and become corp. not for profit. Adds R.S. §3771b-c. '08 p.260, May 1

2342

**Professional and technical education**

For examination and licensing, *see* 591, Practice of law; 944, Medicine; 948, Dentistry; 949, Pharmacy. *See also* 2266, Normal schools

- a **Ky.** Changing name of Agric. and Mechanical College of Ky. to State University, Lexington, Ky.; depts. of law and medicine established; free students; bipartisan bd. of trustees; teachers county certificates may be issued to students. Amds. S.'03 §28. 14§ '08 ch.3, Mar.16
- b **N. J.** State Bd. of Education to establish summer courses in elementary agric., manual training and home economics; certificate of graduation to be valid license to teach; \$2000 annually. 3§ '08 ch.55, Apr.1
- c **Okl.** Establishing Okl. Industrial Institute and College for Girls for white females from 12 to 35 years; govt.; courses. 13§ '08 ch.70, art.1, May 16
- d **Okl.** Creating Comn. of Agric. and Industrial Education to consist of Supt. of Public Instruction, president of Bd. of Agric. and president of Agric. and Mechanical College: to carry out provisions of Const. requiring teaching of agric. and industries in schools. 19§ '08 ch.3 art.3, May 20
- e **R. I.** Comn. of 4 to investigate equipment, educational value, work and means of enhancing service of R. I. College of Agric. and Mechanic Arts; report session of 1909. '08 r.8, May 26

## EDUCATION

2343

### Agricultural

*See also* 1828, Agricultural experiment stations; 1829, Farmers institutes, reading courses, lectures

- a Miss. Authorizing county bds. of supervisors to offer prizes not to exceed \$50 annually for corn clubs in public schools.  
'08 ch.104, Mar.16
- b Miss. Establishment of county agric. high schools; state aid. 5\$  
'08 ch.102, Mar.21
- c N. Y. Establishing State School of Agric. at Alfred University; to give courses preliminary to those at State College of Agric. at Cornell University; \$75,000. 4\$  
'08 ch.200, May 6
- d N. Y. Establishing State School of Agric. at Morrisville to give courses preliminary to those at State College of Agric. at Cornell University; Gov. and Senate to appoint 5 trustees for 4 years; Comr. of Agric. and director of agric. school at Cornell ex officio trustees; \$20,000. 7\$  
'08 ch.201, May 6
- e N. Y. Amdg. '06 ch.682 §3: State School of Agric. at St Lawrence University to give *elementary* instruction in agric. '08 ch.202, May 6

2344

### Colleges

- a Mass. Establishing 120 free scholarships at Mass. Agric. College; to be awarded by competitive examination in senatorial districts; annual appropriations. Rep. '04 ch.414. 4\$  
'08 ch.460, Apr.28

2345

### Commercial

- a Md. Amdg. C.'04 art.77 §67: state aid to establish commercial courses in certain approved high schools. Adds §122a-e, 122½e. 7\$  
'08 ch.635 (p.227), Apr.6

2347

### Forestry

- a La. Establishing chair of forestry at State University.  
'08 ch.242, July 8

2348

### Medicine and surgery. Degrees

*See also* 1062, Dissection

- a Ill. State Bd. of Health may establish standard of preliminary education for admission to medical schools; 4 year high school course or equivalent sufficient. Adds '99 p.273 §2b. '08 p.87, Jan.25

2349

### Mining

- a Okl. Establishing school of mines and metallurgy at Wilburton. 8\$  
'08 ch.70, art.3, May 28
- b Va. Establishing school of mines at Agric. and Mechanical College and Polytechnic Institute. '08 ch.247, Mar.13

2350

### Technical and manual training

- a Ga. Technical school at Atlanta to be known as State School of Technology. '08 p.1035, Aug.17
- b Md. Gov. to appoint comn. of 5 to investigate introduction of industrial education in schools; report next session; \$300.  
'08 ch.367 (p.298), Apr.6



2350

- c **Mass.** Rel. to Comn. on Industrial Education: terms 5 [3] years; Gov. and Council to appoint woman additional member; powers over independent industrial schools; payment of nonresident tuition by commonwealth. 4§ '08 ch.572, June 2
- d **N. J.** Providing for engineering building at State Agric. College; \$20,000. '08 ch.95, Apr.6
- e **N. J.** Gov. to appoint comn. of 5 to investigate promoting of industrial and technical education; report next Legis. 3§ '08 p.735, Apr.14
- f **N. Y.** Amdg. consolidated school law '94 ch.556 §25-27 by providing for establishment of industrial schools in cities and union free school districts; local advisory bds. representing trades; state aid; under supervision of State Comr. of Education. Adds §25a, 28. 6§ '08 ch.263, May 18

2352

## Libraries

2354

### State libraries

- a **Ky.** Clerk for State Library; \$50 per month. '08 ch.34, Mar.20
- b **Nev.** Rel. to State Library: modern equipment; removal from Capitol to library building; classification and cataloguing of books. 4§ '08 ch.17, Feb.8
- c **Okl.** Directors of Okl. Library to appoint State Librarian; term 4 years; assistant. '08 ch.51 art.1, May 5
- d **R. I.** State Librarian to have \$2300 [\$1800] for clerical assistance. Amds. '07 ch.1471. '08 ch.1554, Apr.30
- e **Va.** Library Bd. of State Library authorized to charge fees for making copies to be covered into treasury. '08 ch.264, Mar.13

2355

### Public documents

*See also 70, Distribution of public documents*

- a **N. Y.** Amdg. legis. law '92 ch.682 §44, 45: session laws to be edited under supervision of director of State Library; side notes and references to other laws may be made. 3§ '08 ch.216, May 6

2356

### Free public libraries

2357

### State aid and supervision. Traveling libraries

- a **S. C.** Amdg. '05 ch.442 §7 rel. to use of balance of library appropriation. '08 ch.447, Feb.25

2358

### Establishment. Support. Government

- a **Ill.** Amdg. '72 p.609 §1: annual library tax in city of over 1500 [2000] not included in limit of taxation. '07(ex.sess.)p.86, Dec.24
- b **O.** Amdg. '06 p.260 §4, 6 rel. to payment of bonds issued by public library bds. 2§ '08 p.263, May 1

2360

### School libraries

- a **O.** Rep. R.S. §3998 subd.3 which provided for bds. of trustees of school libraries containing 25,000 volumes. '08 p.65, Apr.7
- b **Va.** Providing for establishment of libraries in rural schools; state aid. '08 ch.316, Mar.14

2363

## History. Records. Memorials

2364

### Anniversary celebrations

- a Ill. Gov. to appoint comn. of 15 to arrange celebration at Springfield of 100th anniversary of Lincoln's birthday Feb.12, 1909.  
'07 (ex.sess.) p.99, Oct.9
- b N. Y. Constituting Lake Champlain Tercentenary Comn.: Gov. to appoint 5, Temporary President of Senate 3, Speaker of Assembly 3; to celebrate tercentenary discovery of lake, July 1909; coöperation with Canada, Vt. and U. S.; report 1910. '08 ch.149, Apr.22
- c N. Y. Adding to Hudson-Fulton Celebration Comn., as provided by '06 ch.325, mayors of cities and presidents of certain villages.  
'08 ch.217, May 6
- d O. Gov. to appoint 5 comrs. to coöperate with citizens of Put-in-Bay to celebrate centennial of battle of Lake Erie 1913.  
'08 p.626, Feb.28

2365

### Archives. Records. Colonial laws

- a Md. Providing for further publication of archives of state by Md. Historical Society; \$4000. '08 ch.91 (p.170), Mar.23
- b Md. Providing for preservation from decay of certain records under supervision of Comr. of Land Office; \$6000.  
'08 ch.606 (p.169), Apr.8
- c Mass. Amdg. R.L. ch.35 §9: use of stamping pads on public records authorized. '08 ch.57, Feb.6
- d N. J. Amdg. '07 ch.76 §1 rel. to printing and distribution of proceedings of Dept. of N. J. of G.A.R. '08 ch.181, Apr.11
- e O. Requesting Gov. of Ct. to turn over to Western Reserve Historical Society certain papers of Ct. Land Co. pertaining to occupancy of reserve by such company. '08 p.628, Mar.5
- f Okl. Authorizing officials to transfer to Okl. Historical Society records not required to be kept in office; fees for copies to go for benefit of society. '08 ch.42, art.1, Apr.24

2369

### Scenic and historic places

*See also* 798, State parks; 2370, Memorials

- a Ga. Accepting gift of Confederate cemetery at Resacca.  
'08 p.1036, Aug.17
- b Kan. Accepting gift from Benjamin P. Unruh of Pawnee Rock.  
'08 (ex.sess.) ch.87, Feb.1
- c La. Memorializing Cong. to maintain national park at scene of battle of New Orleans. '08 ch.78, June 30
- d N. Y. Providing for acquisition by state of Philipse manor house and grounds at Yonkers. 4§ '08 ch.168, Apr.27
- e N. Y. Authorizing city of New York to acquire Alexander Hamilton mansion. '08 ch.220, May 6
- f O. Gov. to appoint comn. of 5 to have care of Fort Meigs; term 5 years. 4§ '08 p.22, Feb.26

2370 **Memorials. Monuments**

- a O. Authorizing county comrs. to appropriate \$100 annually for maintenance of memorial erected on ground owned by G.A.R. post.  
'08 p.464, May 9
- b R. I. Penalty for injuring public monument \$500 or 1 year.  
'08 ch.1542, Apr.24

2371 **Battle flags**

- a N. J. Authorizing Gov. to return Confederate battle flags in possession of state.  
'08 p.728, Apr.2
- b O. Authorizing Gov. to deliver to Gov. of Md. flag of 1st Md. battery captured 1865.  
'08 p.625, Feb.28

2373 **Medals**

- a N. J. Gov. to present "first defenders' medal" to person who enlisted for Civil War Apr. 17, 1861, and subsequently enlisted in same war.  
'08 p.725, Mar.4

2374 **Memorial buildings**

- a N. J. Appropriating \$2000 for column, commemorative of N. J. as one of original states, in Memorial Continental Hall at Washington, D.C.  
'08 ch.63, Apr.2
- b O. Amdg. '06 p.126 §10: county soldiers, sailors and pioneers memorial building to be furnished at not to exceed \$15,000 cost.  
'08 p.126, Apr.21

2376 **Memorials on battlefields. Soldiers monuments**

- a Mass. Comn. of 3, appointed by Gov., to erect shaft at Baton Rouge, La., to Mass. soldiers and sailors in dept. of gulf in Civil War; \$5000.  
'08 r.42, Mar.19
- b N. J. Where association has raised over \$10,000 for monument to soldiers of Civil War, county or city may contribute 30% of amount raised to complete same; title to be in county or city; joint supervision.  
'08 ch.106, Apr.7
- c N. J. Monument on battlefield of Salem Church and tablet on battlefield of Spottsylvania to 15th N. J. V.; Gov. to appoint comn. of 6, 3 survivors of regiment; report to Legis. on completion; \$6500. 5\$  
'08 ch.110, Apr.8
- d R. I. Gov. to appoint comn. of 5 to cause to be erected at New Berne, N. C. monument to R. I. soldiers who died in N. C. during Civil War; \$5000.  
'08 r.6, May 5  
Extra member added. '08 r.7, May 22
- e Va. Gov. and 4 appointed by him to constitute committee to erect monument to Va. troops on battlefield of Gettysburg; \$10,000. 6\$  
'08 ch.151, Mar.9

2377 **Memorials to individuals**

- a Ky. Reinterment of remains of Captain Thomas F. Marshall at Frankfort; monument; \$100.  
'08 ch.24, Mar.19



## HISTORY AND MEMORIALS

2377

- b **Ky.** Appropriating \$10,000 to restore monument of Henry Clay in Lexington cemetery. '08 ch.27, Mar.19
- c **Mass.** Gov. and members of Council selected by him to constitute comn. to erect statue of Admiral John Ancrum Winslow in State House; \$6000. '08 r.63, Apr.8
- d **Va.** Statue of George Washington to be presented with that of Robert E. Lee to National Statuary Hall at Washington; Lee Statue Comn. continued to procure same; \$10,000. 4§ '08 ch.49, Feb.20
- e **Va.** Gov. designated comr. to purchase Trentenove bust of Gen. Fitzhugh Lee for rotunda of Capitol; \$1000. 3§ '08 ch.190, Mar.11

2379

### War records

- a **La.** Gov. to appoint Comr. of La. Military Records; office to expire 1912; to collect and preserve records of La. organizations in War between States and prepare history. 6§ '08 ch.156, July 2
- b **Mass.** Amdg. '93 ch.413 §1 rel. to purchase by state of copies of history of Mass. organization *or unit of Mass. soldiers mustered into regiment of another state* in Civil War. '08 ch.241, Mar.19
- c **Mass.** Amdg. '99 ch.475 §6 rel. to publication of record of Mass. troops and sailors in War of Rebellion: *such to be expended as Gen. Court may appropriate* [\$10,000] annually. '08 ch.491, May 5
- d **N. J.** Adjutant Gen. to take adequate measures to preserve Civil War records on file in office; \$1000. '08 ch.122, Apr.8
- e **O.** Providing that assessors make lists of veterans of Mexican War, War of Rebellion, Spanish-American War and Philippine insurrection; Comr. of Soldiers' Claims to consolidate and file lists. Rep. '94 p.202. 3§ '08 p.96, Apr.10
- f **Va.** Reappointment of Sec. of Military Records to complete records provided for by '04 ch.70. 6§ '08 ch.158, Mar.10

2380

## Scientific work. Art

2384

### Geology. Topography

- a **Ky.** Continuation of geological, topographical and agric. survey of state in coöperation with federal govt.; \$15,000. 10§ '08 ch.63, Mar.25
- b **Okl.** Creating State Geological Comn. to consist of Gov., president of State University and Supt. of Public Instruction: State Geologist; survey of geological formation of state with special reference to mineral deposits; biennial report; \$15,000. 8§ '08 ch.41 art.1, May 29
- c **Va.** Creating State Geological Comn. to consist of Gov., presidents of University of Va. and Va. Polytechnic Institute, supt. Va. Military Institute and 1 appointed by Gov. for 4 years: to have charge of state geological survey; geologist; publication of reports and maps of resources of state; coöperation with U. S. govt.; \$10,000 annually. '08 ch.75, Feb.25

2388

## Military regulations

*See also* 2363, History, records, memorials

2391

### Militia. National Guard

- a **Ga.** Providing for organization of Ga. Volunteers; white men having served 5 years in militia and honorably discharged soldiers of U. S. army and Spanish-American War veterans eligible; under control of Gov. but not of U. S. govt. 5§ '08 p.92, Aug.17
- b **Md.** Generally amdg. C.'04 art.65 rel. to militia. 98§  
'08 ch.103(p.174), Mar.23  
Motor corps provided for. Adds § 91a-b '08 ch.507(p.214), Apr.8
- c **Mass.** Authorizing city or town to establish rifle range for local militia company. '08 ch.256, Mar.20
- d **Mass.** Amdg. '05 ch.202 §1: annual appropriation of \$4000 [\$2500] for military instruction of members of militia. '08 ch.317, Mar.28
- e **Mass.** Amdg. '05 ch.465 §23 rel. to authorized strength of militia: 4 [3] troops of cavalry. '08 ch.344, Apr.3
- f **Mass.** Providing for reimbursing U. S. govt. for injury to military property loaned to commonwealth; to be collected from officers responsible. '08 ch.371, Apr.8
- g **Mass.** Providing for advancing money for annual camp or drill to acting paymaster gen. of militia. '08 ch.434, Apr.22
- h **Mass.** "An act rel. to the militia." Rep.'05 ch.465. 209§  
'08 ch.604, June 11
- i **Mich.** Amdg. '01 ch.204 §10, 27, 53, 58 rel. to National Guard: organization same as of U. S.; military funds; armories; compensation at encampment and drills. Rep. §25. 5§ '07(ex.sess.)ch.5, Oct.24
- j **N. Y.** Amdg. military code '98 ch.212 art.2: organization of militia made to conform to federal requirements. 10§ '08 ch.1, Jan.21
- k **N. Y.** Revising and recodifying military code '98 ch.212. 172§  
'08 ch.231, May 7
- n **Okl.** Organization and regulation of National Guard. 34§  
'08 ch.59 art.1, May 22
- p **R. I.** Penalty for unlawfully wearing uniform of U. S. army or navy or state militia; theaters to get written permission from Sec. of State; person in uniform not to be debarred from public conveyance, inn or place of amusement; damages. Adds G.L. ch.283 §30-32. 3§  
'08 ch.1562, May 5
- q **R. I.** Amdg. sundry sections of G.L. ch.296 rel. to militia. Rep. sundry sections. 53§ '08 ch.1578, May 20
- r **S. C.** Amdg. '05 ch.405 so as to make National Guard conform to U. S. requirements. 11§ '08 ch.506, Feb.26
- s **Va.** Amdg. C. §306 rel. to uniformity of militia regulations with those of U. S. army. '08 ch.1, Jan.16
- t **Va.** Amdg. C. §376: 1 1/2% [1/2 of 1%] of revenues to constitute military fund; \$15,000 appropriated for permanent camp ground.  
'08 ch.92, Feb.26

## MILITARY REGULATIONS

2392

### Armories

- a Miss. Amdg. C.'06 §3277: bds. of supervisors authorized to provide armories for National Guard. '08 ch.185, Mar.21
  - b N. J. County may appropriate \$200 to \$500 for care of grounds surrounding armories. 3§ '08 ch.134, Apr.9
  - c Or. Appropriating \$100,000 for construction of armories under direction of State Military Bd.; companies etc. to pay rental therefor out of annual allowance. 5§ '07 ch.236, Feb.26
- Referendum demanded, and law rejected by popular vote June 1, 1908.

2394

### Encampment

- a La. Gov. and Adjutant Gen. to select sites of annual encampments of National Guard. Rep.'06 ch.35. '08 ch.94, July 1
- b O. Purchasing additional land for state rifle range and camp ground; to be called Camp Perry and dedicated as state park for military purposes. 4§ '08 p.606, May 1

2398

### Officers and boards

- a S. C. Amdg. Const. 1895 art.13 §4: election by people of Adjutant [and Inspector] Gen.; [Gov. and Senate may appoint such staff-officers as Legis. directs]. Adopted Nov. 1908. '08 ch.703, Feb.26

2400

### Adjutant general

- a R. I. Amdg. G.L. ch.294 §8: allowance to Adjutant Gen. for clerical assistance \$1800 [\$1500]. '08 ch.1532, Apr.10

2405

### Volunteers in Spanish War. Additional pay

- a La. Amdg. '06 ch.211 §2, 5 rel. to distribution of money due Spanish-American War veterans: Gov. to deposit money in *bank* [State Treasury]. '08 ch.43, June 20
- b Mass. Provisions rel. to granting service medals to members of militia to apply to members who served in Spanish War. '08 ch.315, Mar.28

2406

### Pensions and relief

2408

### State pensions and aid

- a O. Amdg. '00 p.164 rel. to Comr. of Soldiers' Claims: salary \$2500 [\$1800]; to look after sailors' claims; to instruct as to admission to homes; to visit homes and U. S. depts. personally. '08 p.94, Apr.10
- b O. Appropriating \$13 for each surviving member of Squirrel Hunters, citizen soldiers called out for defense of state in 1862. '08 p.639, May 9

2409

### Confederate veterans

- a Ala. Amdg. '07 p.550 granting pensions of 1st class to Confederate veterans and their widows when 80 years of age: proof of age. '07 (ex.sess.) p.48, Nov.23



2409

- b **Ga.** Amdg. Const. 1877 art.7 §1: tax authorized for pensions for Confederate veterans and widows. Adopted Nov. 1908. '08 p.34, Aug.12
- c **Ga.** Comr. of Pensions to be elected by people; term 2 years; salary \$3000. 5§ '08 p.66, Aug.14
- d **Ga.** Method of paying pensions to Confederate veterans. '08 p.70, Aug.18
- e **La.** Joint legis. committee of 12 to investigate number and needs of Confederate veterans and widows. '08 ch.8, May 29
- f **La.** Enumeration of ex-Confederate soldiers and widows. 3§ '08 ch.71, June 30
- g **La.** Amdg. Const. 1898 art.303 rel. to Confederate pensioners: must not be worth more than \$500; annual appropriation *not to exceed* \$250,000 [\$75,000 to \$150,000]. Adopted Nov. 1908. '08 ch.269, July 9
- h **N. C.** County comrs. to pay burial expenses of Confederate pensioner; not to exceed \$25. '08 ch.37, Jan.30
- i **Va.** Amdg. '02 ch.453 §1, 2, 4, 7, 14-16, 18, 20 rel. to pensions for Confederate veterans. 9§ '08 ch.159, Mar.10
- j **Va.** State to pay funeral expenses, not to exceed \$25, of Confederate pensioners and widows. '08 ch.175, Mar.11
- k **Va.** Pensioning women who were nurses in Confederate hospitals for 12 months; \$40 per year. 4§ '08 ch.178, Mar.11
- n **Va.** Authorizing city or county to make special levy for maintenance of disabled Confederate soldiers and widows. 7§ '08 ch.341, Mar.14

2410

#### Local pensions and relief

- a **O.** Amdg. R.S. §3107 subd.50: county levy of not to exceed 5/10 [3/10] of mill for relief of indigent veterans and their families. '08 p.525, May 9

2411

#### Burial expenses

- a **N. Y.** Amdg. poor law '96 ch.225 §83: cost of burial of veteran by county not to exceed \$50 [\$35]. '08 ch.328, May 19
- b **O.** Amdg. R.S. §3107 subd.45-47 rel. to burial of indigent veterans, their mothers and wives by county: friends to select undertaker; expense not to exceed \$75 [\$50]; 2 [3] comrs., *to receive \$1 each*; form of contract with undertaker; comrs. to apply to U. S. govt. for headstone. 3§ '08 p.99, Apr.10
- c **O.** Providing for plot for burial of indigent veterans in places having no organization of veterans. 4§ '08 p.443, May 9

#### Preference of veterans

*See* 38(5, Civil service; *also* 816, Exemption from taxation; 833, Business taxes; 1560, Hawkers and peddlers; 2335, Tuition; 2714, Road tax

2416

#### Soldiers homes

- a **La.** Joint legis. committee of 5 to investigate needs of Soldiers Home in New Orleans; report 1910. 3§ '08 ch.220, July 8
- b **S. C.** Gov. to appoint committee of 5 to establish infirmary for Confederate veterans at Bellevue place on Wallace land; 2 admitted from each county; \$12,000. 3§ '08 ch.486, Feb.18

## MUNICIPALITIES

2417

### *Admission*

- a Mich. Amdg. C.L.'97 §2062 rel. to residence required for admission to soldiers home. '07 (ex.sess.) ch.2, Oct.24
- b O. Amdg. '86 p.107 §2 rel. to eligibles for entrance to soldiers home: member of National Guard who has lost arm, leg or sight *or become permanently disabled* in service. '08 p.123, Apr.15

2418

### *Widows and orphans*

- a Mass. Amdg. R.L. ch.79 §4 rel. to state aid for widows of veterans of Civil War: must have been widow prior to *June 27, 1890* [Apr. 9, 1880]. '08 ch.405, Apr.17

2421

## Organizations

2423

### G. A. R.

- a N. J. Municipality may grant use of rooms in munic. buildings to G.A.R. '08 ch.288, Apr.15
- b O. State to maintain permanent headquarters for G. A. R. '08 p.480, May 9

2430

## Local government

2432

## Municipalities

The usage of terms designating local bodies varies widely in different states. The word *municipality* is here used throughout in its original and strictest meaning to designate any *densely populated*, incorporated community; thus including cities, villages, boroughs, hamlets and "towns" (as a name for villages) but not including townships. Where the word *town* is used to designate the primary division of the county, it is grouped with township government, though in the case of the New England towns the nature of the government approaches more nearly that of a municipality than that of a western township.

2438

### Organization. Powers generally

- a N. J. Gen. city charter; may be adopted by any city by vote of electors. 122§ '08 ch.179, Apr.11
- b N. J. Uniform city charter: may be adopted by referendum. 52§ '08 ch.250, Apr.14
- c N. J. Rel. to cities adopting '03 ch.168: certain officers; wards; powers of council; press bureau to advertise advantages. 8§ '08 ch.256, Apr.14
- d N. Y. Gov. to appoint comn. of 15 to investigate govt. of N. Y. city and suggest legislation; in its discretion to draft new charter and administrative code; final report to Legis. 1909; \$30,000 to be paid by city. 5§ '08 ch.114, Apr.13
- e O. Amdg. '02 (ex. sess.) p.20 §7 rel. to gen. powers of munic. corp., by renumbering subdivisions as sections. 33§ '08 p.4, Jan.24
- f O. '02 (ex. sess.) p.20 rel. to organization of cities and incorporated villages may be referred to as "Munic. C. of '02." '08 p.10, Jan.30
- g Okl. City of over 2000 authorized to frame and adopt own charter; referendum; approval by Gov.; corporate powers. 5§ '08 ch.12 art.4, May 22

2438

- h Or. Amdg. Const. 1857 art.11 §2: municipalities given exclusive right to regulate theaters, race tracks, pool rooms, bowling alleys, billiard halls and sale of liquors subject to local option laws. Proposed by initiative petition and rejected June 1, 1908.
- i Va. Organization and govt. of cities of 2d class. 20§  
'08 ch.2, Jan.23
- j Va. Incorp. by Circuit Court of town of 200 to 5000. 3§  
'08 ch.308, Mar.14

2438(3

**Commission government**

*See also 2438(5, Special charters*

- a Mass. Amdg. charter of city of Haverhill: preliminary election for nomination of officers; council of 5 to govern; recall; initiative and referendum; adopted by referendum Oct. 1908. 47§ '08 ch.574, June 3
- b Mass. Council govt. for city of Gloucester; initiative and referendum; adopted by vote of electors Nov. 1908. 31§ '08 ch.611, June 11
- c Miss. Comn. form of govt. for cities and towns to be adopted by referendum. 13§ '08 ch.108, Mar.21
- d Tex. Revised charter of city of El Paso. 201§  
'07 special laws ch.5, Feb.25
- e Tex. Revised charter of city of Fort Worth. 164§  
'07 special laws ch.7, Feb.26
- f Tex. Revised charter of city of Greenville. 88§  
'07 special laws ch.24, Mar.15
- g Tex. Revised charter of city of Denison. 111§  
'07 special laws ch.33, Mar.21
- h Tex. New charter of city of Dallas: comn. govt.; initiative and referendum; recall. 183§  
'07 special laws ch.71, Apr.13

2438(5

**Special charters**

- a Ga. Charter of city of Lavonia. 33§ '08 p.822, July 30
- b Ga. New charter for city of Eatonton. 32§ '08 p.620, Aug.5
- c Ga. New charter for city of Blue Ridge. 85§ '08 p.419, Aug.6
- d Ga. Incorporating city of Kingsland. 9§ '08 p.815, Aug.6
- e Ga. New charter for city of Jackson. 53§ '08 p.787, Aug.8
- f Ga. Charter of city of Buchanan. 38§ '08 p.468, Aug.17
- g Ga. Incorporating city of Danielsville. 4§ '08 p.575, Aug.17
- h Ga. Charter of city of Franklin. 37§ '08 p.689, Aug.17
- i Ga. Charter of Union City. 44§ '08 p.935, Aug.17
- j N. Y. Charter of city of Glens Falls. 207§ '08 ch.29, Mar.13
- k N. Y. Supplementary charter of city of Yonkers. 146§  
'08 ch.452, May 21
- n N. Y. Charter of city of Oneonta. 197§ '08 ch.454, May 21
- p N. Y. Revised charter of city of Ithaca. 241§ '08 ch.503, May 23
- q Tex. Revised charter of city of Marshall. 306§  
'07 special laws ch.23, Mar.11
- r Tex. Charter of city of Temple. 115§  
'07 special laws ch.37, Mar.27
- s Tex. Charter of city of Tyler. 95§ '07 special laws ch.101, Apr.18



## MUNICIPALITIES

2438(5

- |   |        |   |      |                                |
|---|--------|---|------|--------------------------------|
| t | Tex.   | New charter of city of Texarkana.                   | 287§ |                                |
|   |        |   |      | '07 special laws ch.104, May 2 |
| u | Va.    | New charter for city of Portsmouth.                 | 83§  | '08 ch.157, Mar.10             |
| v | Va.    | Generally amdg. charter of city of Charlottesville. | 47§  |                                |
|   |        |   |      | '08 ch.285, Mar.14             |
| w | Va.    | New charter for city of Bristol.                    | 138§ | '08 ch.286, Mar.14             |
| x | W. Va. | Charter of city of Beckley.                         | 43§  | '08 ch.1, Feb.14               |

2439

## Annexation and exclusion of territory

*See also* 2443

- a **Ky.** Amdg. '94 ch.100 art.3 §2 rel. to annexation of territory of a city to city of 2d class: *majority* [2/5] vote required. '08 ch.22, Mar.19
- b **Minn.** Declaring unconst. '05 ch.273 authorizing District Court to detach agric. lands from villages. Delegation of legis. power.  
In re Brenke 117 N. W. 157 (1908)
- c **Miss.** Amdg. C.'06 §3301 rel. to enlarging or contracting territory of municipality: not to apply to town under 300 [500].  
'08 ch.186, Mar.21
- d **Okl.** Amdg. '95 ch.11 art.2 rel. to annexation of territory to city: consent of owners not necessary where 3 sides adjacent to city; tracts exceeding 40 [5] acres [used for agric. purposes] not subject to city taxes.  
'08 ch.10 art.2, May 29

244I

## Change of name

- a O. Amdg. R.S. §1570 which provides for change of name of *city*,  
village or hamlet. '08 p.475, May 9

2442

## Classification of cities

- a     **Okl.** Election to provide for city of 2000 to become of 1st class.  
Amds. S.'03 §346, 350, 351.     5§     '08 ch.12 art.1, Feb.20

2443

## Consolidation

*See also* 2439

- a N. J. Enabling adjoining municipalities, other than cities, lying in same county, to consolidate and form city. 17§ '08 ch.178, Apr.11

2144

## Incorporation. Dissolution

- a O. Authorizing reduction of city of under 5000 to village. 11§  
'08 p.392, May 9

2446

## Liability for injuries

*See also* 471, Torts; 2728, Roads

- a La. Requiring action against municipality for damages resulting from grading streets to be brought within 1 year. '08 ch.26, June 20

2455 **Legislative body. Council**

- a N. J. President of governing bd. of city of 2d class to be chosen at gen. election; term 2 years; referendum. '08 ch.246, Apr.13
- b O. Amdg. '02 (ex. sess.) p.20 §195 rel. to president pro tem. of village council: time of election; term; to be acting mayor. '08 p.246, Apr.30

2459 **Number**

- a Va. Amdg. C. §1021 rel. to number of councilmen of town: *not less than 3 nor more than 9* [6]. '08 ch.46, Feb.15

2461 **Terms**

- a N. J. Rel. to terms of councilmen and collector on city passing from 3d to 2d class. 3§ '08 ch.85, Apr.6

2463 **Ordinances**

- a N. J. Rep.'79 ch.102 rel. to powers of city common council. '08 ch.72, Apr.2

2468 **Mayor**

- a N. J. Amdg. '97 ch.161 §3 rel. to boroughs: assessor and collector to be appointed; council authorized to accept resignation of mayor and appoint successor. '08 ch.67, Apr.2

2469 **Salary**

- a N. J. Salary of mayor of town may be fixed by governing body; not to exceed \$1000; in lieu of fees. '08 ch.154, Apr.10

2473 **Municipal civil service**

*See also* 2588, Financial officers. Laws relating to election, salary etc. of a particular officer are classified under the name of the officer.

- a N. J. Creating Civil Service Comn. of 4; appointed by Gov. and Senate; term 4 years; salary \$2000; classification of positions; appointments, promotions and removals in state and munic. service to be made according to provisions of act; preference of veterans of Civil War; adoption by municipality by referendum. 33§ '08 ch.156, Apr.10
- b O. Amdg. sundry sections of '02 (ex. sess.) p.20 rel. to powers of munic. officers. 26§ '08 p.562, May 12

2474 **Appointments. Election**

- a N. J. Amdg. '97 ch.161 §3 rel. to boroughs: assessor and collector to be appointed; council authorized to accept resignation of mayor and appoint successor. '08 ch.67, Apr.2
- b N. J. Governing body of town, township or borough may fill vacancy in elective office. '08 ch.143, Apr.9
- c N. J. Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: gen. election for state and county officers in even years, for justices of peace and munic. officers in odd years. Adds art.7 §2 ¶12-14. 10§ Not printed in session laws

## COUNTY AND TOWNSHIP

### 2477 Salaries. Fees

- a N. Y. Amdg. '06 ch.473 §16: in city of 2d class bd. of estimate and apportionment, with approval of common council, may fix salary of corp. counsel or city engineer. '08 ch.141, Apr.17

### 2480 Special officers

- a La. Amdg. '98 ch.136 §19 rel. to officials of towns and villages: mayor may be street comr. if aldermen elect. '08 ch.306, July 9

### 2482 Attorney

- a O. Amdg. '02 (ex. sess.) p.20 §137: city solicitor to be prosecuting atty. of Police *or Mayor's Court*. '08 p.458, May 9

### 2492 County and township government

Includes provisions relating to the Louisiana parish. *See also* specific functions of counties and towns: Roads, Charities, Drainage etc.

### 2495 County seats

- a Okl. Election for selection of county seat. 22§  
'08 ch.31 art.4, Apr.17
- b Va. Providing for election to remove courthouse of county. 7§  
'08 ch.336, Mar.14

### 2497 County records

*See also* 396, Conveyance; 2522(5, Recorder

- a Okl. Providing for transcribing and authenticating records for newly erected county. 3§  
'08 ch.74 art.1, Mar.17
- b Okl. Register of deeds to receive records formerly kept in land offices of U. S.; county comrs. may transcribe records of other county affecting their own. 5§  
'08 ch.74 art.2, Apr.17

### 2498 New counties. Consolidation. Division

- a Ala. Submitting amdt. to Const. 1875 by adding art. 19: formation of new counties. Rejected Nov. 1908. '07 p.628
- b Okl. Supreme Court to make division of assets and liabilities on formation of new county. 5§  
'08 ch.26, art.2, Apr.10
- c Okl. Formation of new counties. 9§  
'08 ch.26 art.1, Apr.24
- d S. C. Election for erection of new county not to be held oftener than once in 4 years. '08 ch.493, Feb.28
- e U. Submitting amdt. to Const. 1895 art.11 §3: Legis. may erect new counties from old ones [on vote of counties affected]. 4§. Rejected Nov. 1908. '07 p.273, Mar.25



2501

### Governing body

- a **La.** Police juries authorized to enforce ordinances by fine or imprisonment. '08 ch.315, July 9
- b **Mass.** Amdg. R.L. ch.20 §16, 17, 19; ch.48 §54, 55 rel. to county comrs.: time and place of meetings; qualifications of clerk pro tempore; duties rel. to town delinquent for highway taxes. 5§ '08 ch.431, Apr.21
- c **Okl.** Amdg. S.'03 §1433 rel. to publication in newspaper of proceedings of county comr. '08 ch.17 art.3, May 22
- d **Okl.** Amdg. S.'03 §1391, 3053 rel. to county comrs.: time of meeting; salaries. '08 ch.17 art.2, May 29

2503

### Clerk

- a **N. J.** Referring to Legis. 1909 amdt. to Const. 1844 art.4 §1 ¶3, §2 ¶1, 2, §3 ¶1; art.5 ¶3; art.7 §2 ¶6, 7: term of county clerks and surrogates 6 [5] years, of sheriffs and coroners 4 [3] years; gen. election for state and county offices in even years. Adds art.7 §2 ¶12-14. 10§. Not printed in session laws
- b **Va.** Amdg. C. §852: clerk of bd. of supervisors may receive salary not to exceed \$60 [\$30] per year. '08 ch.306, Mar.14

2504

### Election. District. Vacancies. Number. Term

- a **La.** Ward of parish of less than 50,000 to have additional police juror for each 5000 population or fraction over 2500. '08 ch.279, July 9
- b **N. J.** Amdg. '97 ch.161 §2: borough of 2500 [3000] entitled to member of county bd. of chosen freeholders. '08 ch.101, Apr.7
- c **N. J.** Amdg. '02 ch.34 §1, 4 rel. to members of bds. of chosen freeholders: terms; vacancy filled for unexpired term. '08 ch.164, Apr.10
- d **N. J.** Amdg. '05 ch.7 §1: county clerk and clerk of municipality represented to be notified of vacancy in bd. of chosen freeholders. '08 ch.183, Apr.10

2505

### Meetings

- a **Miss.** Amdg. C.'06 §297 rel. to place of meetings of bd. of supervisors in county having 2 court districts. '08 ch.150, Mar.21
- b **N. J.** Rel. to bds. of chosen freeholders except for counties of 1st class: annual meeting Jan. 1 at 12 m.; fiscal year Jan. 1 to Dec. 31. 3§ '08 ch.289, Apr.15

2510

### Salaries. Fees

- a **Miss.** Amdg. C.'06 §2195: compensation of supervisor not to exceed \$200 [\$100] per year; in county over 20,000 \$250 [\$200] per year. '08 ch.177, Feb.4
- b **Va.** Amdg. C. §848 rel. to compensation of supervisors: \$4 [\$3]; *number of days' service allowed graded according to population.* '08 ch.218, Mar.12
- c **W. V.** Submitting amdt. to Const. 1872 art.4 §4, art.8 §23: only elector eligible for elective [or appointive] office; comrs. of County Court to receive \$4 [\$2] per day *which may be increased by election.* 6§. Rejected Nov. 1908. '08 p.255, Mar.2  
     Same (resolution). '08 p.250, Feb.18  
     Same (resolution). '08 p.255, Mar.2

2512

### County civil service

*See also 2588, Financial officers. Laws relating to election, salary etc. of a particular officer are classified under the name of the officer*

2514

### Oath. Installation

2515

### Bonds

- a **Neb.** Declaring unconst. '01 ch.11 rel. to bonds of county and township officers and amdg. C.S. ch.10 §19. Matter added not germane to subject of section. *Prowett v. Nance County* 117 N. W. 996 (1908)

2517

### Salaries. Fees

- a **Cal.** Amdg. Const. 1879 art.11 §5: Legis. may fix fees of county officers; also of jurors graded according to class of county, not to exceed \$3 per day. Adopted Nov. 1908. '07 p.1276, Mar.8
- b **Col.** Submitting amdt. to Const. 1876 art.14 §15: Legis. to fix compensation of county, precinct *and other* officers. 3\$. Rejected Nov. 1908. '07 ch.180, Apr.3

2519

### Special officers

- a **O.** Amdg. R.S. §845: county comrs., *on written request of prosecuting atty.*, may employ counsel. '08 p.337, May 9

2521

### Clerk

- a **Okl.** Amdg. '05 ch.19 art.1 §1 rel. to compensation of county clerks. '08 ch.25 art.1, May 29

2522(5

### Recorder. Register of deeds

- a **Mass.** Amdg. R.L. ch.204 §29 rel. to fees of register of deeds: 10c extra for each additional party to deed except husband or wife. '08 ch.365, Apr.7

2523

### Surveyor. Engineer

*See also 386, Property lines*

- a **Md.** Amdg. C.'04 art.91 §1: appointment of deputy to execute warrant of Land Office in case of neglect or incapacity of county surveyor. '08 ch.480 (p.246), Apr.8

2526

### Townships. Towns

Under this head are included governments that constitute the primary division of the county. In the New England States and in New York and Wisconsin towns are primary divisions of the county and are classed here; in many states towns are densely populated incorporated communities and are classed with municipalities. In Illinois and Minnesota the primary division of the county is called both "town and township" and in Illinois there are besides a number of incorporated towns.

- a **Tex.** Submitting amdt. to Const. 1876 art.5 §18: county may be redistricted into comrs. precincts *as may be provided by law*. Rejected Nov. 1908. '07 p.416

2533

### Boards. Officers

Laws relating to election, salary etc. of a particular officer are classified under the name of the officer.

2534 *Bond*

- a **Neb.** Declaring unconst. '01 ch.11 rel. to bonds of county and township officers and amdg. C.S. ch.10 §19. Matter added not germane to subject of section. *Prowett v. Nance County* 117 N. W. 996 (1908)

2537 *Vacancies*

- a **N. J.** Governing body of town, township or borough may fill vacancy in elective office. '08 ch.143, Apr.9

2538 *Special officers*

*See also* 2588, Financial officers

2542 GOVERNING BOARD

- a **N. J.** Authorizing increase of township committee from 3 to 5 members; referendum. '08 ch.141, Apr.9
- b **N. J.** Amdg. '06 ch.158 §2 rel. to township committee of township of over 8000: term of member-at-large 2 [1] years, *ex officio chairman*; *standing committees appointed by majority vote*. '08 ch.303, Apr.16

2550 **Local finance**

Only the *purely* financial matters are here placed. Authorization of taxes, assessments, bonds etc. for special municipal purposes — schools, libraries, lights, streets etc. are classified under these heads. They are however also *indexed* under Taxes etc. Miscellaneous provisions as to assessment and collection of taxes in local bodies are under Taxation, as such provisions usually apply to all classes of taxes. *See particularly* 2237, School finance

- a **N. J.** Providing for recovery of money or property of township or school district misappropriated or recovery of damages therefor. 4§ '08 ch.162, Apr.10

2552 **Property**

2553 **Lands. Purchase. Sale. Lease**

- a **N. J.** Amdg. '00 ch.8 §1 which authorizes county to acquire land for certain county buildings: house of detention for witnesses and juveniles awaiting trials and transportation after sentence, included. '08 ch.225, Apr.13

2555 **Buildings and grounds**

- a **Miss.** Amdg. C.'06 §398: bd. of supervisors may have artesian well dug on courthouse, jail, county farm or poorhouse property. '08 ch.152, Mar.6
- b **Va.** Amdg. C. §925: bd. of supervisors or council may furnish office for treasurer, comrs. of revenue and commonwealth's atty. for county or city. '08 ch.136, Mar.5

2556 *Municipal*

- a **N. J.** Borough may issue certificates of indebtedness for repairs to munic. building and erection of building for fire dept.; interest; amount. '08 ch.31, Mar.25



## LOCAL FINANCE

2556

- b N. J. Rep. '03 ch.269 which authorized cities to erect buildings for city purposes. 3§ '08 ch.33, Mar.27
- c N. J. Authorizing city to erect building for city purposes; building comm.; bond issue of not to exceed \$600,000; sinking fund; sale of property not needed. 7§ '08 ch.34, Mar.27
- d N. J. Part of borough hall may be rented. '08 ch.103, Apr.7
- e Okl. Authorizing city of 8000 to issue not to exceed \$100,000 of bonds for convention hall. 6§ '08 ch.7 art.2, May 27

2557

### County

- a Ind. Declaring unconst. '99 ch.53 rel. to construction of courthouse in county of over 25,000. Special law regulating county business. Kraus v. Lehman 83 N. E. 714 (1908) Sanders v. Crawford 83 N. E. 718 (1908)
- b Ky. Amdg. S.'03 §3948: jailer of county *under* 75,000 to have charge of public buildings at seat of justice; *fiscal court to appropriate money for maintenance; certain counties excepted.* '08 ch.44, Mar.23
- c Ky. Fiscal court to care for courthouse in county containing city of 2d class where all terms of Circuit Court held at county seat. '08 ch.45, Mar.23
- d Miss. Authorizing bd. of supervisors to employ janitor for courthouse. '08 ch.142, Mar.20
- e O. Amdg. R.S. §2825: expenditure of over \$15,000 for county building or bridge to be submitted at fall, [spring] *or special* election. '08 p.87, Apr.10
- f O. Amdg. R.S. §872, 873: county building refund bonds may be issued for 30 [20] years. '08 p.205, Apr.24
- g Okl. Authorizing county comrs. to lease county buildings to federal and state officers. '08 ch.17 art.1, Feb.20
- h Va. Amdg. C. §834 rel. to allowances by bds. of supervisors to sheriffs, county clerks and attys. for commonwealth. '08 ch.311, Mar.14

2559

### Property and supplies generally

2560

### Contracts

2561

#### OFFICERS INTEREST IN CONTRACTS

- a Va. Amdg. C. §823 which prohibits city officer having interest in city contract. '08 ch.212, Mar.12

2566

### Taxes

*See also* 2577. Tax levy

2569

### Special assessments

*See also* Special purposes of assessments: Streets, Sewers, Drains, etc

- a Ill. Declaring unconst. '97 p.101 §41 providing for subdivision of unsubdivided tracts of land for assmt. for house drains and water service pipes. Deprives of property without due process of law. City of Chicago v. Wells 86 N. E. 197 (1908)

2569

- b N. J. Common council of city of 3d class may authorize payment of assmts. of benefits in 2 to 5 annual instalments; interest 6 to 10%. '08 ch.161, Apr.10
- c N. J. Providing for comrs. of assmt. in city under 12,000; to assess damages for land taken or injured and against owner for benefits received; procedure. 10\$ '08 ch.266, Apr.14
- d Va. Amdg. C. §1041a rel. to local assmts. in cities and towns. '08 ch.63, Feb.25

2571

*Assessment bonds*

- a O. Amdg. '02 (ex.sess.) p.20 §95a: municipality may issue 5 [2] year notes in anticipation of collection of special assmt. '08 p.459, May 9

2575

**Budget. Accounts**

- a N. Y. Amdg. county law '92 ch.686 §12 subd.2: bd. of supervisors to audit [annually] charges against county and direct *annually* raising of sums to defray same. '08 ch.410, May 20

2577

**Appropriation. Tax levy. Expenditures**

- a N. J. Body having control of finances in municipality may publish annually tax list and findings in appeal cases. 5\$ '08 ch.166, Apr.11
- b N. J. County bd. of taxation may allow increase of tax to 10c on \$100 for county purposes, 30c on \$100 for school purposes. '08 ch.182, Apr.11
- c N. Y. Amdg. '06 ch.473 §76, 78 rel. to annual appropriations and temporary loans. '08 ch.191, Apr.29

2578

*Limit of taxation*

- a Ill. Amdg. '72 p.609 §1: annual library tax in city of over 1500 [2000] not included in limit of taxation. '07 (ex.sess.) p.86, Dec.24
- b S. D. Declaring unconst. '99 ch.41 limiting county tax rate to 8 mills. County required to raise sufficient to pay indebtedness; impairs obligation of contract.  
Fremont, E. & M. V. R. Co. v. Pennington County 116 N. W. 75 (1908)
- c W. Va. Declaring unconst. '07 ch.62, '08 ch.9 §4 reducing limit of tax rate in municipality as far as it affects payment of outstanding indebtedness.  
Welch Water, Light & Power Co. v. Town of Welch 62 S. E. 497 (1908)

2579

**Examination and audit**

- a N. J. Amdg. '07 ch.3 §1 rel. to summary investigation of county and munic. expenditures. '08 ch.189, Apr.13

2580

**Accounts to be kept. Form**

- a W. Va. Sheriff, prosecuting atty., and clerks of County and Circuit Courts to account for all moneys received and pay excess over salary and allowances to sheriff as treasurer; to keep books in form prescribed by Tax Comr. 9\$ '08 ch.15, Mar.4

## LOCAL FINANCE

2581

### Reports

- a N. J. Abolishing publication of monthly statement of condition of town. '08 ch.152, Apr.10

2583

### State supervision. Uniform accounts

*See also* 856, State accounts

- a N. J. Establishing Dept. of Accounts: in charge of Auditor of Accounts, appointed by Gov. and Senate; term 5 years; salary \$3000; to establish uniform bookkeeping in state depts. and institutions; audit of accounts of state and county officials. Gov. may remove. Rep. '04 ch.198. 4§ '08 ch.305, Apr.16
- b N. Y. Amdg. '05 ch.705 §6: Comptroller to appoint not to exceed 15 [10] examiners of munic. accounts. '08 ch.187, Apr.29
- c Okl. State Examiner to examine accounts of state and county treasurers and state institutions; to establish uniform system of book-keeping; assistants. 7§ '08 ch.79 art.1, Apr.9

2584

### Fiscal year

- a N. J. Fiscal year of county, except 1st class, and of municipality, except city of 1st or 2d class, Jan. 1 to Dec. 31; financial report of governing body to be made Dec. 31. '08 ch.264, Apr.14
- b N. J. Rel. to bds. of chosen freeholders except for counties of 1st class: annual meeting Jan. 1 at 12 m.; fiscal year Jan. 1 to Dec. 31. 3§ '08 ch.289, Apr.15

2587

### Funds

- a Ala. Authorizing transfer of balance of county fine and forfeiture fund to other fund. '07 (ex.sess.) p.178, Nov.23
- b Ill. Amdg. '89 p.258 §3: township funds may be invested in state and munic. bonds. '08 p.97, Mar.7
- c W. Va. Investment of sinking funds of localities and school districts. 5§ '08 ch.11, Feb.21

2588

### Financial officers

- a Va. Amdg. C. §613, 614 rel. to fees of city and county treasurers for receiving and disbursing revenues. '08 ch.244, Mar.13

2589

### Municipal

- a N. J. Amdg. '97 ch.161 §3 rel. to boroughs: assessor and collector to be appointed; council authorized to accept resignation of mayor and appoint successor. '08 ch.67, Apr.2
- b N. J. Rel. to terms of councilmen and collector on city passing from 3d to 2d class. 3§ '08 ch.85, Apr.6
- c N. J. Cities of 2d class may regulate salaries of collectors and treasurers. '08 ch.205, Apr.13
- d Va. Referring to next Legis. amdt. to Const. 1902 §119, 120: atty. for commonwealth in city [not] eligible for reelection; city treasurer [not] eligible for more than 2 consecutive terms. '08 ch.48, Feb.19
- e Va. Amdg. C. §92, 98: comr. of revenue of city to be appointed by Corp. or Circuit Court [elected]. '08 ch.64, Feb.25



2593

*County*

- a **Mass.** Amdg. '07 ch.560 §307 12: county comrs. may make temporary appointment in case of disability of county treasurer.  
'08 ch.391, Apr.13
- b **O.** Rep. R.S. §1121 which allowed county treasurer actual expenses for transmission of moneys to and from State Treasury.  
'08 p.87, Apr.9
- c **S. C.** Compensation of county auditors and treasurers. 3§  
'08 ch.481, Feb.24
- d **S. C.** Amdg. '07 ch.270 rel. to compensation of county officers: provisions as to auditors and treasurers eliminated. 43§  
'08 ch.504, Feb.24
- e **Va.** Referring to next Legis. amdt. to Const. 1902 §110: county treasurer and comrs. of revenue eligible for reelection [for not more than 2 and 1 terms respectively].  
'08 ch.37, Feb.14
- f **Va.** Fee of county treasurer for sale of county and school district bonds  $\frac{1}{4}$  of 1%, not less than \$15 nor more than \$250.  
'08 ch.312, Mar.14
- g **Va.** Amdg. C. §1517: trustees of school district to audit county treasurer's commissions for handling school moneys. '08 ch.325, Mar.14

2597

**Debts. Bonds**

*See also* 2245, School finance; 2571, Special assessments

- a **Ark.** Submitting amdt. to Const. 1874 art.16 §1: counties, cities and towns may issue bonds, not to exceed 10% of assessed valuation, for maintenance of public improvements; 3 mill levy. Rejected Sept. 1908.  
'07 p.1257, May 23
- b **Kan.** State Treasurer fiscal agent of state; state, munic. and school bonds payable at Topeka; duties and commission of State Treasurer; agency in city of New York. Amds. G.S. '01 §3155. 6§  
'08 (ex.sess.) ch.58, Feb.1
- c **La.** Amdg. Const. 1898 by adding article ratifying '06 ch.19, '08 ch.116 rel. to issue by New Orleans of \$8,000,000 of public improvement bonds. Adopted Nov. 1908.  
'08 ch.116, July 2
- d **La.** Amdg. '99 ch.5 §1, 22-25 rel. to issuance of bonds by municipalities, parishes and drainage districts: refunds; sinking funds; application of surplus tax. 5§  
'08 ch.299, July 9
- e **La.** Amdg. Const. 1898 art.281 rel. to issuance of bonds by municipalities, parishes and drainage districts. 3§. Adopted Nov. 1908.  
'08 ch.300, July 9
- f **Mass.** Amdg. R.L. ch.27 §5, 13; ch.28 §10; ch.34 §7 rel. to indebtedness of cities and towns. 4§  
'08 ch.341, Apr.2
- g **N. J.** Authorizing municipality to fix rate of interest on bonds hereafter issued at not to exceed 5%.  
'08 ch.19, Mar.18
- h **N. Y.** Referring to next Legis. amdt. to Const. 1894 art.8 §10: city of New York may issue bonds not to exceed 1/10 of 1% of assessed valuation in anticipation of tax levy; water bonds of city of 3d class not included in debt limit; debt incurred by city of New York for public improvement yielding income in excess of interest not included in debt limit.  
'08 p.1920, Apr.21

## LOCAL FINANCE

2597

- i N. Y. Amdg. '06 ch.473 §60: funded debt of city of 2d class to be issued for *not more than* 20 years. '08 ch.190, Apr.29
- j N. Y. Amdg. county law '92 ch.686 §52 rel. to time of county clerk reporting county's indebtedness to Comptroller. '08 ch.478, May 23
- k O. Amdg. '04 p.550 §17 rel. to township road bonds: interest 6% [5%]; amount outstanding not to exceed \$100,000 [\$50,000]. '08 p.102, Apr.10
- n O. Amdg. R.S. §872, 873: county building refund bonds may be issued for 30 [20] years. '08 p.205, Apr.24
- p O. Amdg. '02 (ex.sess.) p.20 §97 rel. to sale of bonds of municipality. Adds §97a. '08 p.254, Apr.30
- q S. C. Municipality authorized to issue certificates of stock for coupon bonds issued. Adds C.C. §2022a. '08 ch.448, Feb.25
- r S. C. Amdg. C.C. §2015: municipality authorized to issue bonds to refund debt [existing at time of adoption of Const.] '08 ch.450, Feb.26
- s Va. Issuance of county bonds for permanent road or bridge improvement in magisterial districts; referendum. 10§ '08 ch.70, Feb.25

2598

### Limitation of indebtedness

- a Miss. Amdg. C.'06 §3415 rel. to limitation of munic. indebtedness: not to apply when proceeds of bonds invested in enterprise paying interest on bonds. '08 ch.189, Mar.20
- b Mo. Submitting amdt. to Const. 1875 by adding art.10 §12b: city of 100,000 authorized to incur additional indebtedness of 5% of assessed valuation. Rejected Nov. 1908. '07 p.453
- c Mo. Submitting amdt. to Const. 1875 art.10 §12a: in city of 2000 to 30,000 debt for waterworks, electric or other light plants not to be considered rel. to limitation of indebtedness. Rejected Nov. 1908. '07 p.454
- d S. C. Amdg. Const. 1895 art.10 §7: debt limitation not to apply to town of Gaffney when bonds applied to erection and maintenance of waterworks, electric light plants or sewerage system and proposition submitted to popular vote. Adopted Nov. 1908. '08 ch.712, Feb.27

2599

### Temporary debt

- a Mass. Rel. to temporary loans of cities and towns. Amds. R.L. ch.27 §10. '08 ch.250, Mar.20
- b N. J. Borough may issue certificates of indebtedness for repairs to munic. building and erection of building for fire dept.; interest; amount. '08 ch.31, Mar.25
- c N. Y. Amdg. '06 ch.473 §76, 78 rel. to annual appropriations and temporary loans. '08 ch.191, Apr.29
- d N. Y. Amdg. village law '97 ch.414 §128: village may borrow money in anticipation of taxes [levied] *prior to annual levy not in excess of estimate of trustees.* '08 ch.509, June 11

2599

- e Okl. New counties authorized to borrow money from Comrs. of Land Office in anticipation of taxes. 6§ '08 ch.17 art.5, Feb.10
- f S. C. Amdg. C.C. §1989: city *or town* council [of city of over 5000] authorized to borrow money in anticipation of taxes; *discounting such notes*. '08 ch.442, Feb.20

2600

### Deposits and depositories

- a La. Requiring deposit of state and local public funds in authorized depositories; interest; security. 9§ '07 ch.23, Dec.3
- b La. Amdg. '07 (ex.sess.) ch.23 §1: deposits of state and local funds in depositories to be made *weekly* [daily]. '08 ch.282, July 9
- c O. Amdg. '02 (ex.sess.) p.20 §109 rel. to depository for funds of munic. corp.: competitive bids provided for. '08 p.136, Apr.22
- d O. Amdg. '94 p.403 §4, 7 rel. to county depositories: undertaking to be continuous; form; securities in lieu of undertaking. Reenacts §10-12, adds §13. 6§ '08 p.465, May 9

### Police, *see* 872

2603

### Fire department

*See also* 1092, Fires

- a N. J. Authorizing city to issue not to exceed \$50,000 of bonds for improvement of police dept. facilities and fire and police alarm system. '08 ch.125, Apr.8
- b N. J. Fire dept. on duty with apparatus to have right of way over all but U. S. mail; msdr. to obstruct. '08 ch.206, Apr.13

2605

### Fire districts

- a Mass. Amdg. R.L. ch.32 §67: rule adopted by fire district to be approved by *Atty. Gen.* [Superior Court] *and published in newspaper*. '08 ch.98, Feb.17
- b N. J. Authorizing borough to establish fire districts; special levy. '08 ch.60, Apr.2
- c N. J. Amdg. '07 ch.287 §2, 4 rel. to time of election of officers and organization of bd. of district for supplying water for fire purposes. '08 ch.92, Apr.6

2606

### Finances

2607

### *Appropriation. Taxes. Bonds*

- a N. J. Amdg. '06 ch.270 §13 rel. to estimates for fire and police depts. in city of under 35,000. '08 ch.80, Apr.2

2608

### *Property*

- a N. Y. Amdg. village law '97 ch.414 §128 subd.2: village authorized to borrow money for fire *houses*, engines, fire alarm system and *fire apparatus*. '08 ch.176, Apr.28



## PUBLIC IMPROVEMENTS

2609

### APPARATUS

*See also* 1096, Fire alarms

- a N. J. Authorizing city to purchase steam fire engines and apparatus and reconstruct fire houses; cost not to exceed \$35,000; by contract to lowest bidder; bond issue. 3§ '08 ch.207, Apr.13

2612

### Officers

*See also* 1093, Fire marshal

- a N. Y. Amdg. village law '97 ch.414 §206 rel. to powers of council of fire dept. '08 ch.302, May 18

2613

### *Appointment and removal*

- a N. Y. Amdg. '06 ch.473 §137: policeman or fireman dismissed from office in city of 2d class may apply for reinstatement within year; comr. of public safety may rehear and redetermine case. '08 ch.252, May 11

2614

### *Exemptions*

*See also* 727, Jury; 2714, Road tax

- a N. Y. Defining exempt firemen entitled to privileges of civil service law. 5§ '08 ch.325, May 19

2616

### *Pensions. Relief*

- a N. J. Authorizing Exempt Firemen's Associations to be represented by delegates in organization of State Firemen's Relief Association. 3§ '08 ch.82, Apr.3
- b N. J. Amdg. '02 ch.270 §10, 11 rel. to firemen's pension fund in city of 1st class: source; method of paying pensions. '08 ch.147, Apr.10
- c Okl. Authorizing municipality of over 1000 to pension firemen. '08 ch.63 art.1, May 14
- d Va. Relief fund for members of local fire depts.; tax on fire and lightning insurance companies therefor. 10§ '08 ch.181, Mar.11

2617

### *Salaries*

- a N. J. Regulating salary of certain firemen, in cities of 2d class, of paid fire dept.; referendum. 3§ '08 ch.201, Apr.13

2620

## Public works. Public improvements

*See also* 1054, Cemeteries

- a La. Amdg. '80 ch.125: certain corporations for works of public improvement authorized to issue bonds. '08 ch.50, June 22

2627

## Public utilities (general)

*See also* 1337, Street railways

- a La. Msdr. for agent of public service corp. to disobey order of Railroad Comn. requiring information to be given concerning management of depots and offices. '08 ch.240, July 8
- b Okl. Msdr. to refuse to allow Corp. Comrs. to examine books of public service corp.; felony to conceal or destroy records of such corp. to hinder investigation. 4§ '08 ch.18 art.4, Mar.28

2627

- c **Okl.** Enumerating employees of Corp. Comn. and their salaries. '08 ch.18 art.1, May 19
- d **Okl.** Punishment for contempt for disobedience of order of Corp. Comn.; procedure. 10§ '08 ch.18 art.3, May 29
- e **Va.** Amdg. C. §1313a rel. to bonds of clerk, 1st assistant clerk and bailiff of Corp. Comn.: may be given by guaranty or trust company, cost to be paid by state. '08 ch.103, Feb.29

2628

### Franchises (general)

*See also* 1362, Street railways; 1415, Telegraph and telephone; 2635, Electricity and gas

- a **N. J.** Amdg. '07 ch.148 §1: franchise for use of street for more than 20 years to be granted by referendum in city of 12,000 [except in counties of 2d to 4th classes]; for not more than 50 years [in counties of 2d to 4th classes]. '08 ch.210, Apr.13

2629

### Public ownership (general)

*See also* 2635, Electricity and gas; 2650, Water; 2721, Toll roads

- a **Mo.** Submitting amdt. to Const. 1875 art.10 §12a: in city of 2000 to 30,000 debt for waterworks, electric or other light plants not to be considered rel. to limitation of indebtedness. Rejected Nov. 1908. '07 p.454
- b **S. C.** Amdg. Const. 1895 art.10 §7: debt limitation not to apply to town of Gaffney when bonds applied to erection and maintenance of water works, electric light plants or sewerage system and proposition submitted to popular vote. Adopted Nov. 1908. '08 ch.712, Feb.27
- c **Va.** Providing for referendum vote for issue by city or town of bonds for constructing or acquiring public utility in accordance with Const. §127 ¶B. '08 ch.254, Mar.13
- d **Va.** Authorizing city or town to operate gas, electric or water plant situated in contiguous territory leased or purchased by it. '08 ch.331, Mar.14
- e **Va.** Amdg. C. §1038: council of city or town authorized to acquire public utility within or without limits, to establish parks and playgrounds, to require owners in certain localities to leave certain per cent of lots free from buildings, to regulate height of buildings. '08 ch.349, Mar.14

2630

### Rates. Charges

- a **O.** Unlawful to require cash deposit for gas, water or electricity from freeholder or person furnishing safe guaranty; amount of cash deposit limited; interest at 6% to be paid thereon; forfeiture for violation. Adds R.S. §3559a-b. '08 p.445, May 9

2633

### Electricity. Gas

*See also* 320, Crimes against property

- a **Ky.** Authorizing company producing electric light, heat and power by water power to use highways for transmission; condemnation rights. 3§ '08 ch.19, Mar.17
- b **Mass.** Rel. to expenses of Bd. of Gas and Electric Light Comrs. and compensation of employees. 3§ '08 ch.536, May 19

2635                      **Municipal plants**

- a    **Mass.** Authorizing use of depreciation funds of munic. gas and electric light plants to pay indebtedness incurred for reconstruction in excess of ordinary repairs.                      '08 ch.486, May 5
- b    **N. J.** Authorizing village to construct or purchase and operate gas or electric light plant for public and private use; referendum. 12§                      '08 ch.48, Apr.1
- c    **O.** Amdg. '02 (ex.sess.) p.20 §7-0: municipality authorized to furnish [gas for] light, power and heat. 3§                      '08 p.34, Feb.28

2636                      **Public lighting contracts**

- a    **O.** Authorizing unincorporated district to contract for lighting streets. 10§                      '08 p.490, May 9

2638                      **Companies**

*See also 2035, Petroleum and gas*

- a    **Mass.** Authorizing purchase and consolidation of gas and electric light companies in same or contiguous municipalities. 6§                      '08 ch.529, May 19
- b    **Mass.** Amdg. R.L. ch.110 §32 rel. to increase of capital stock by gas and electric companies. Rep. '06 ch.437.                      '08 ch.534, May 19
- c    **S. C.** Authorizing electric railway, gas and electric light companies to lease property to like companies.                      '08 ch.502, Feb.26

2642                      *Meters. Quality of light*

- a    **O.** Amdg. R.S. §3556, 3561 rel. to gas companies: meter may vary 3%; penalty for not keeping testing apparatus.                      '08 p.471, May 9

2643                      *Rates*

- a    **N. Y.** Declaring unconst. '05 ch.737 as to provision that rates fixed by Comn. of Gas and Electricity shall not be changed for 3 years even though becoming confiscatory. Denies equal protection of laws.  
       Trustees of Saratoga Springs v. Saratoga Gas, Electric Light & Power Co.                      83 N. E. 693 (1908)

2645                      *Placing of poles, wires, pipes etc.*

- a    **La.** Regulating installation of electric wires and apparatus in city of 50,000. 17§                      '08 ch.178, July 3
- b    **Mass.** Authorizing local authorities to lay additional restrictions as to laying or erecting wires by electric power company; power of Bd. of Gas and Electric Light Comrs. 3§                      '08 ch.617, June 12
- c    **N. Y.** Village trustees may require electric poles to be marked with name of owner. Adds §88 subd.26 to the village law '97 ch.414.                      '08 ch.301, May 18



2648

## Water

*See also* 1079, Pollution of water; 1180, Control of water

- a N. J. Municipality may consent to another using highways and public places for water mains. '08 ch.283, Apr.15
- b N. J. Amdg. '07 ch.253 §7: State Water Supply Comn. may sell water impounded in storage reservoir to municipality [water company or person]. '08 ch.320, Apr.16

2650

## Municipal works

- a N. J. Authorizing city to issue \$100,000 of bonds for water mains and supply plant; sinking fund. 3§ '08 ch.111, Apr.8
- b N. J. Amdg. '99 ch.95 §4: town council may extend water supply plant, cost not to exceed \$15,000 [\$5000] per year. '08 ch.150, Apr.10
- c N. J. Authorizing city owning water supply derived from sources without city limits and in single watershed to issue \$1,000,000 of bonds to acquire additional water rights. '08 ch.301, Apr.16
- d O. Amdg. R.S. §2425: municipality may furnish water to *other* [contiguous] municipality. '08 p.249, Apr.30

2651

## Storage reservoirs

- a O. Amdg. '02 (ex.sess.) p.20 §10, 12: municipality may appropriate land for reservoirs and for parks and boulevards; may resell with reservations as to future use. '08 p.207, Apr.27

2655

## Water companies

- a Kan. Authorizing corp. supplying municipality with water to dam stream; eminent domain. 3§ '08 (ex.sess.) ch.36, Feb.1

2656

## Stocks. Mortgages

- a N. J. Amdg. '76 ch.193: waterworks company may increase capital stock at annual *or special* meeting. '08 ch.28, Mar.25
- b N. J. Amdg. '83 ch.152 §1 rel. to issuance of bonds by waterworks company. '08 ch.29, Mar.25

2661

## Sewerage. Garbage

*See also* 1079, Pollution of water; 1192, Drainage; 2707, Street improvement

- a N. J. Rel. to drainage and sewerage in cities: renewal of temporary obligations; bond issue; assmts. '08 ch.160, Apr.10
- b N. J. Amdg. '07 ch.266 §3, 8 rel. to city sewer systems. '08 ch.172, Apr.11
- c N. J. Amdg. '06 ch.116 §4: limitation on tax rate not to apply to cost of construction and maintenance of borough sewerage system. '08 ch.274, Apr.14
- d N. J. Abolishing State Sewerage Comn. '08 ch.296, Apr.16
- e N. J. Duties of State Sewerage Comn. to devolve on State Bd. of Health. '08 ch.297, Apr.16

2661

- f    **N. Y.** Amdg. '01 ch.348 §6, 14 rel. to sewer systems outside incorporated places: expense of engineer part of cost; levy for maintenance. '08 ch.269, May 18
- g    **S. C.** Msdr. to use well or privy vault for discharge of sewerage in place of over 500; abatement. '08 ch.514, Feb.24

2663(5

**Garbage**

- a    **N. J.** Bd. of public works of city authorized to pass ordinances regulating buildings, disposition of garbage, markets; penalties for violations. '08 ch.68, Apr.2
- b    **N. Y.** Amdg. '06 ch.473 §79: city of 2d class may make contract for collection and disposal of garbage or sprinkling of streets by railway cars. '08 ch.34, Mar.18

2664

**House connections**

- a    **N. J.** Town may compel house connections with sewers; payment when done by town. 7§ '08 ch.261, Apr.14

2670

**Sewage disposal**

- a    **O.** Authorizing State Bd. of Health to prevent pollution of streams and lakes and require installation of sewage disposal plants; procedure; penalties. 7§ '08 p.74, Apr.8

2671

**Sewer assessments**

- a    **Mass.** Amdg. R.L. ch.49 §15 rel. to apportionment of sewer assmts. '08 ch.356, Apr.3
- b    **W. Va.** Grading, paving and sewerage streets of municipalities. 18§ '08 ch.8, Mar.6

2679

**Parks. Public grounds***See also 798, State parks*

- a    **Md.** Authorizing Baltimore to issue \$3,000,000 of stock to extend park system and establish gen. center for public and other buildings and public squares. 6§ '08 ch.188 (p.641), Mar.30
- b    **N. J.** Amdg. '04 ch.37 §1: town authorized to lease or condemn land for park. '08 ch.104, Apr.7
- c    **N. J.** Amdg. '07 ch.99 §10, 107: park comm. established in city of 2d class under 20,000. '08 ch.239, Apr.13
- d    **O.** Amdg. '02 (ex.sess.) p.20 §10, 12: municipality may appropriate land for reservoirs and for parks and boulevards; may resell with reservations as to future use. '08 p.207, Apr.27
- e    **O.** Authorizing city to establish bd. of park comrs. by vote; appointment; powers and duties. 6§ '08 p.440, May 9
- f    **Va.** Amdg. C. §1038: council of city or town authorized to acquire public utility within or without limits, to establish parks and playgrounds, to require owners in certain localities to leave certain per cent of lots free from buildings, to regulate height of buildings. '08 ch.349, Mar.14

2689                      **Ordinances. Regulations**

- a     **Ill.** Punishment for violation of park ordinance.  
'07 (ex.sess.) p.93, Dec.24

2694                      **Playgrounds. Recreation piers**

- a     **Mass.** Authorizing city or town of 10,000 to maintain public playground; referendum. 5§  
'08 ch.513, May 12
- b     **N. J.** Amdg. '07 ch.117 title and §2-6 rel to public playgrounds *and recreation places* in cities. 6§  
'08 ch.108, Apr.7
- c     **N. J.** Amdg. '05 ch.106 §1: city of 1st class authorized to expend annually \$10,000 [\$5000] on excursions and recreation centers for poor.  
'08 ch.130, Apr.9

2696                      **Public entertainment**

- a     **Kan.** Amdg. '07 ch.120 §1 rel. to tax in certain cities of 1st class for public musical entertainment: rate 1 mill on \$1 [\$100] assessed valuation.  
'08 (ex.sess.) ch.30, Jan.31
- b     **Mass.** Amdg. '04 ch.152 §1: town may appropriate \$500 at *any* [annual] town meeting for public band concerts.  
'08 ch.290, Mar.25
- c     **Mass.** Authorizing metropolitan park comn. to furnish band concerts; not to exceed \$25,000 annually.  
'08 ch.324, Mar.31

2698     **Baths, comfort stations and gymnasiums**

- a     **Mass.** Authorizing town to establish and maintain public gymnasiums and swimming baths.  
'08 ch.392, Apr.13

2700                      **Roads. Streets**

- a     **Ky.** Submitting amdt. to Const. 1891 by adding art.: credit of commonwealth may be loaned to county; county may incur indebtedness not to exceed 5% of taxable property for road purposes. Vote Nov. 1909.  
'08 ch.36, Mar.21
- b     **N. J.** Bd. of chosen freeholders to improve road on petition of owners of  $\frac{2}{3}$ , either inlineal feet or in area, of land fronting on road.  
'08 ch.53, Apr.1
- c     **N. J.** Resolution to pay 10 per cent of cost of road binding on township.  
'08 ch.54, Apr.1
- d     **N. J.** Amdg. '05 ch.58 §4 rel. to limit of annual expenditure by county for roads.  
'08 ch.265, Apr.14
- e     **N. Y.** Revising and recodifying highway law: provides for State Highway Comn. of 3 appointed by Gov. and Senate; term 6 years; salary \$5000, of chairman \$6000; state trunk highways. Rep. sundry statutes. 230§  
'08 ch.330, May 19
- f     **O.** Amdg. '04 p.550 §17 rel. to township road bonds: interest 6% [5%]; amount outstanding not to exceed \$100,000 [\$50,000].  
'08 p.102, Apr.10
- g     **O.** Amdg. '04 p.550 §5, 18 rel. to improvement of township roads: filling vacancy in office of comr.; levy not to exceed 6 [5] mills.  
'08 p.468, May 9



## ROADS

2700

- h** O. Amdg. '00 p.96 §1 rel. to petitioners for improvement of roads: in determining majority resident landowners residing in any municipality need not be counted. '08 p.489, May 9
- i** Va. Issuance of county bonds for permanent road or bridge improvement in magisterial districts; referendum. 10§ '08 ch.70, Feb.25
- j** Va. Amdg. '06 ch.308 title, §2, 13, 15-19 rel. to county roads: *subdivisions* [subdistricts]; duties of State *Highway Comr.* [Engineer]. 7§ '08 ch.71, Feb.25
- k** Va. Amdg. C. §944a rel. to construction and repair of county roads under supervision of State Highway Comr. '08 ch.280, Mar.13
- n** Va. Evidence sufficient to prove existence and location of public road. '08 ch.388, Mar.14

2702

### State road systems and state aid

- a** Ala. Amdg. Const. 1901 §93: Legis. may apply net proceeds from state convict fund to construction and maintenance of roads, and may make additional appropriations for same purpose. 3§. Adopted Nov. 1908. '07 p.740
- b** La. Joint legis. committee of 15 to investigate system of working public roads. '08 ch.6, May 28
- c** Md. Creating State Roads Comn. to consist of Gov., 3 appointees of Gov., 2 members of Md. Geological and Economic Survey; salaries of appointees \$2000, of chairman \$2500; to build system of state roads; work to be completed in 8 years; bond issue of \$5,000,000. Adds C. '04 art.91 §32a-o. 15§ '08 ch.141 (p.247), Mar.25
- d** Mass. Amdg. R.L. ch.47 §17 rel. to state aid for roads in town of under \$1,000,000 valuation. '08 ch.279, Mar.25
- e** Mass. Amdg. '03 ch.473 §12 rel. to application of fees received by Highway Comn. to maintenance of highways. '08 ch.642, June 13
- f** Mo. Submitting amdt. to Const. 1875 by adding art.10 §27: tax of 10c on \$100 for highways. Rejected Nov. 1908. '07 p.457
- g** N. J. Roads on land belonging to state to be constructed and improved under supervision of State Comr. of Public Roads; cost to be paid by state. '08 ch.295, Apr.16
- h** O. Amdg. certain acts creating State Highway Dept.; state aid. 34§ '08 p.308, May 9
- i** R. I. Submitting to electors proposition to authorize Legis. to issue \$600,000 of bonds for construction of state highways. Adopted Nov. 1908. '08 r.2, May 21
- j** Va. Where road built under direction of State Highway Comr. state to pay 50% and county and district to pay 50%; purchase of road material; convict labor; \$250,000 annually. 10§ '08 ch.76, Feb.25
- k** Wis. Amdg. Const. 1848 art.8 §10: state may appropriate money or levy tax for construction or improvement of public highways. Adopted Nov. 1908. '05 p.991; '07 ch.238, June 19

2703

### Road officers. Overseers. Street commissioners

- a** Minn. Declaring unconst. '07 ch.458 rel. to highway officers in county of under 200,000. Population alone not proper basis of classification. Hjelm v. Patterson 117 N. W. 610 (1908)

2703

- b N. J. Amdg. '06 ch.70 §2: salary of supervisor in office of State Comr. of Public Roads \$3600 [\$2500]. '08 ch.88, Apr.6

2704

**Road districts**

- a O. Amdg. '98 p.421 §7, 8, 16, 19 rel. to organization of special road districts from contiguous townships: compensation of officials and employees; selection of roads to be improved; bond issue; expense of repairs. 4§ '08 p.384, May 9

2706

**Road machinery and material**

- a O. Authorizing county comrs. to purchase road machinery. '08 p.204, Apr.24
- b Va. Amdg. '06 ch.73 §9: State Highway Comr. may authorize building of sand-clay road where local conditions proper '08 ch.131, Mar.3

2707

**Street improvement**

*See also 2569, Special assessments*

- a N. J. Village trustees may improve street on petition of 10 freeholders if owners of 1/2 abutting do not object; assmts. 15§ '08 ch.99, Apr.6
- b N. J. Amdg. '01 ch.21 §1 rel. to issue of street improvement bonds by city bordering on ocean. Rep. '07 ch.141. 3§ '08 ch.114, Apr.8
- c N. J. Authorizing town to expend \$20,000 per year for street improvement. '08 ch.137, Apr.9
- d N. J. Regulating issue of bonds and work for improvement of streets in municipality governed by bds. of comrs. or improvement comns. Amds. '01 ch.103 title and §1, 2. 15§ '08 ch.142, Apr.9
- e N. Y. Amdg. village law '97 ch.414 §166: flagging street in village may be done on petition of owners of 1/2 [2/3] of frontage. '08 ch.461, May 21
- f Okl. Paving, grading and draining of streets in city of 1st class. Amds. S. '03 §443-47, 451-52; rep. '01 ch.8 art.2. 12§ '08 ch.10 art.1, Apr.17
- g W. Va. Grading, paving and sewerage streets of municipalities. 18§ '08 ch.8, Mar.6

2708

**Grading**

- a Va. Ascertainment and assmt. of damage to abutting owners by grading street in city; to have effect of judgment. '08 ch.217, Mar.12

2709

**Paving. Macadamizing**

- a N. J. Authorizing town council to repave street; contract to be let to lowest responsible bidder; bond issue; sinking fund. 4§ '08 ch.61, Apr.2

2711

**Location. Opening. Altering. Vacating**

- a N. J. Authorizing county to alter road to meet increased requirements; procedure. 5§ '08 ch.69, Apr.2
- b N. J. Providing for elevation of road subject to storm tides which runs to an island of \$5,000,000 assessed valuation and 1000 voters. '08 ch.89, Apr.6

2711

- c **N. J.** Authorizing bd. of chosen freeholders to acquire land, vacate highway and borrow money to lay out or alter highway; procedure. 9§ '08 ch.238, Apr.13

2712

*Streets*

- a **Ky.** Amdg. S.'03 §3562: action to close public way in city of 4th class. '08 ch.31, Mar.20
- b **Ky.** Amdg. S.'03 §3572-75 rel. to original construction of street in city of 4th class. 4§ '08 ch.40, Mar.24
- c **N. Y.** Rep. '06 ch.473 §102 providing that street in city of 2d class not opened within 6 years after dedication shall be deemed abandoned. '08 ch.23, Mar.5
- d **O.** Amdg. R.S. §2656 rel. to vacation of streets and alleys: notice of petition to be served on municipality. '08 p.93, Apr.10

2713

**Road taxes and work***See also 2569, Special assessments*

- a **Ill.** Amdg. '72 p.218 art.5 §1: municipality may license wagons and regulate vehicles, loads and tires; fees to be used for street improvement. '07 (ex.sess.) p.36, Dec.31
- b **Ky.** Amdg. S.'03 §4315 rel. to contracts for working roads in county under tax system. '08 ch.42, Mar.24
- c **Minn.** Amdg. Const. 1857 art. 9 §16: Legis. may levy tax of  $1/4$  [ $1/20$ ] mill for bridge and road fund; omitting clause rel. to appointment of State Highway Comn. 3§. Adopted Nov. 1906. '05 ch.212, Apr.17; '07 ch.478, Apr.24

This amdt. was voted upon in 1906 and reported by the canvassers at that time as rejected. The Supreme Court of Minn. on Jan. 7, 1909, decided that the amdt. had been adopted. Pending this decision the amdt. had been resubmitted in 1908, and the vote at that time was for rejection. Presumably this latter vote was of no effect, and the amdt. stands as adopted in 1906.

- d **Mo.** Amdg. Const. 1875: county or town may levy special road and bridge tax of 25c per \$100. 1§. Adopted Nov. 1908. [Probably intends to supply new section, art.10 §22, in place of art.10 §11a, held unconst. in *State v. C. B. & Q. R. R. Co.* 195 Mo. 288 (1906)]. '07 p.458
- e **O.** Amdg. R.S. §4925-26 rel. to extra levy by county comrs. for road purposes. '08 p.353, May 9
- f **O.** Amdg. R.S. §4919 rel to maintenance of highways by county comrs.: levy; materials to be furnished by lowest bidder; may employ labor direct. Adds §4919 subd.1; rep. §4919a. 3§ '08 p.360, May 9
- g **O.** Amdg. '96 p.162 §13, R.S. §1448a, 1457, 2830, 4715a rel. to working of roads. Rep. various local acts. 7§ '08 p.436, May 9
- h **O.** Amdg. R.S. §4637 subd.9 rel. to road assmts.: bonds may be issued in anticipation of payment of instalments. '08 p.476, May 9



- 2714 *Poll tax and road work*
- a Ky. Amdg. S.'03 §1882: poll tax of \$1.50 may be applied to roads. '08 ch.26, Mar.19
  - b S. C. Amdg. C.C. §1985: town or city of over 1000 authorized to require performance of road work or payment of commutation tax; penalty for failure to comply. '08 ch.446, Feb.25
- 2715 *Roads on boundaries. Joint roads*
- a O. Providing for repair of joint county roads. Adds R.S. §4658a. '08 p.485, May 9
- 2716 *Sidewalks*
- a Mass. Land owner may require apportionment of assmt. for sidewalk into 10 parts; to be adopted in city by common council, in town by electors. '08 ch.216, Mar.14
  - b N. J. Authorizing borough to complete construction of sidewalks and gutters commenced before incorp. '08 ch.159, Apr.10
  - c N. J. City may require owner of abutting land to pave and curb sidewalk. 8§ '08 ch.193, Apr.13
- 2720 *Toll roads*
- a Md. Amdg. C.'04 art.23 §353 rel. to forcing toll road company to keep road in repair. '08 ch.451 (p.73), Apr.13
- 2721 *Public purchase*
- a N. J. Authorizing bond issue by county for purchase of toll road. '08 ch.13, Mar.16
  - b N. J. Authorizing improvement of toll road acquired by county, bond issue; assmts.; procedure. 14§ '08 ch.287, Apr.15
- 2722 *Miscellaneous*
- 2723 *Automobiles and motorcycles*
- a Kan. Amdg. '03 ch.67 §1 rel. to automobiles. '08 (ex.sess.) ch.12, Jan.31
  - b Mass. Munic. authorities may permit use of highways for hill-climbing contests by automobiles. '08 ch.263, Mar.23
  - c Mass. Highway Comn. to submit consolidation and revision of motor vehicle laws to next Legis. '08 r.127, June 9
  - d Mass. Rel. to enforcement of motor vehicle laws. Amds. '03 ch.473 §1, 4, 9; '06 ch.412 §4. Rep. '05 ch.311 §1. 9§ '08 ch.648, June 13
  - e N. J. Msdr. to place sharp substance or injurious obstruction in road; to fail to return fine collected under Motor Vehicle Law within 30 days. '08 ch.115, Apr.8
  - f N. J. Amdg. '06 ch.113 §4, 9, 15-17, 21, 25, 37, 38 rel. to motor vehicles. 9§ '08 ch.304, Apr.16
  - g O. Registration, identification and regulation of motor vehicles. Amds. R.S. §3490; rep. '06 p.320. 37§ '08 p.538, May 11
  - h R. I. Automobile act. Rep. '04 ch.1157. 25§ '08 ch.1592, May 26

## ROADS

### 2727 *Cleaning. Watering. Oiling*

- a **Mass.** Amdg. R.L. ch.25 §22: town of 1000 [3000] authorized to appropriate money to water streets. '08 ch.452, Apr.28
- b **N. J.** Authorizing town to sprinkle streets; assmt. of abutting property; not to be done when owners of 50% of property fronting protest. 3§ '08 ch.26, Mar.25
- c **N. Y.** Amdg. '96 ch.473 §79: city of 2d class may make contract for collection and disposal of garbage or sprinkling of streets by railway cars. '08 ch.34, Mar.18
- d **O.** Amdg. '06 p.50 §1, 2 authorizing municipality to contract for oiling of streets and public places to lay dust. '08 p.587, May 20

### 2728 *Damage through defect*

*See also* 471, Torts; 2446, Municipalities

- a **Mass.** Extending to actions against persons and corporations provisions as to notice in case of injury caused by snow and ice on premises or adjoining way; service of notice. '08 ch.305, Mar.27

### 2730 *Drainage*

- a **N. J.** Providing for construction of joint drain by county and borough to drain county road and borough street. '08 ch.46, Apr.1

### 2736 *Highway regulations*

- a **Mass.** Penalty for failure to keep vehicle on right of road where view not unobstructed for 100 yards. '08 ch.512, May 12
- b **R. I.** Amdg. G.L. ch.74 §1 rel. to law of road: person overtaking to pass to left. '08 ch.1522, Apr.3

### 2737 *Obstruction. Injury to roads*

- a **N. J.** Msdr. to place sharp substance or injurious obstruction in road; to fail to return fine collected under Motor Vehicle Law within 30 days. '08 ch.115, Apr.8
- b **O.** Amdg. '96 p.88 §1: unlawful for gypsies or travelers to camp *or make fire* on highway without consent of *agent or* owner of abutting lands. '08 p.86, Apr.9

### 2742 *Trees. Grassplots*

- a **Mass.** Amdg. R.L. ch.53 §6, 12, 13 rel. to shade trees in public ways: authorization to plant; cutting and trimming. Rep. ch.208 §103. 5§ '08 ch.296, Mar.27
- b **Mass.** Amdg. '05 ch.279 §1, 3: trees, *shrubs and growths* on state highways to be cut only by employee of Highway Comm. '08 ch.297, Mar.27
- c **N. J.** Amdg. '96 ch.162 §1 which prohibits tying of animal to tree [planted by owner or possessor of adjacent lands] *adjacent to or on street*. '08 ch.145, Apr.9

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- d N. J. Amdg. '93 ch.285 §2 rel. to appointment of comrs. for planting and care of shade trees in municipalities. '08 ch.151, Apr.10
- e N. J. City park comn. to have care of shade trees along highways. '08 ch.198, Apr.13

2745

*Weight of load. Wide tires*

- a Ill. Amdg. '72 p.218 art.5 §1: municipality may license wagons and regulate vehicles, loads and tires; fees to be used for street improvement. '07 (ex.sess) p.36, Dec.31



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No. 479 ALBANY, N. Y. SEPTEMBER 15, 1910

## New York State Library

### Legislation 39

#### REVIEW OF LEGISLATION 1907-8

OCTOBER 1, 1906 TO OCTOBER 1, 1908

EDITED BY

Clarence B. Lester, *Legislative Reference Librarian*

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*New York State Education Department*

*New York State Library, March 17, 1910*

*Hon. A. S. Draper*

*Commissioner of Education*

DEAR SIR: I have the honor to transmit herewith and to recommend for publication as Legislation 39, the seventh topical review of the laws enacted on many important subjects by the different states during the year 1907 and 1908. Heretofore this Review has been published annually. As in most of the states the Legislature meets but once in two years it seems in every way better, beginning with the present number, to issue it biennially. It is fitting to acknowledge here the cordial coöperation of those specialists in various parts of the country but for whose work this review could not have been prepared.

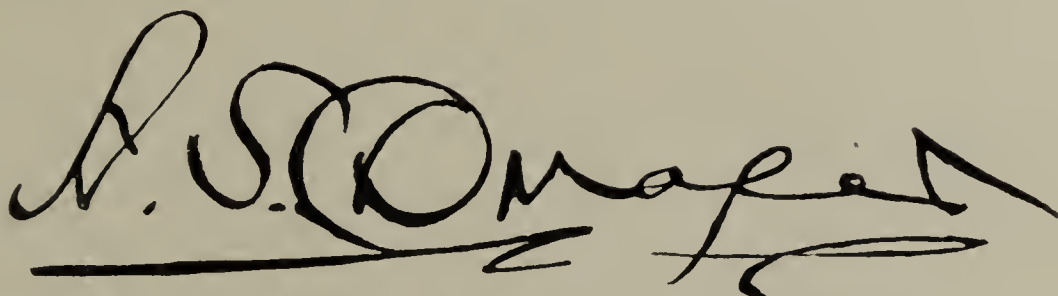
Very respectfully

JAMES I. WYER, JR

*Director*

State of New York  
Education Department  
COMMISSIONER'S ROOM

*Approved for publication this 18th day of March 1910*



*Commissioner of Education*





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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39a

LABOR

LEONARD W. HATCH PH.D., CHIEF STATISTICIAN, NEW YORK DEPARTMENT OF LABOR

**SESSIONS OF 1907**

Recommendations of legislation by executives are most interesting or significant in a general review of legislation when they mark lines of proposed advance or new departures in the general field of a given subject. Considered from this point of view most of the executive messages of 1907, touching upon the subject of labor, are not notable, though all, practically without exception, point toward improvement along familiar lines, in the individual states.

Three executive recommendations of 1907 stand out conspicuously from the others for progressiveness. Two of these are found in President Roosevelt's annual message to Congress (December 1906), while the third is found in Massachusetts, whose reputation for progressive labor legislation is known of old. Unquestionably President Roosevelt's recommendation that the entire burden of industrial accidents due to the inevitable hazards of an occupation should be placed upon employers, to be by them shifted to the public as consumers, constitutes the most advanced ground on labor questions taken by any executive in 1907; that is, advanced in relation to existing American legislation, though not more advanced than most European legislation of some years past. President Roosevelt's whole hearted advocacy of a progressive advance to an eight hour working day, so far as legislation can compass it, made in connection with a recommendation of limitation upon the hours of railroad employees, is likewise notable. But the field in which constitutional restriction of the daily hours of adult males by legislation is possible is undoubtedly very narrow. A recommendation of Governor Guild of Massachusetts, however, points to a restriction of hours for that class as well as others, which would seem to be both attainable by law and highly desirable. This is one day's rest in seven, whether Sunday or some other day, which, he urges, is "especially demanded for a people of strenuous applica-



tion and high strung nervous activity," a limitation which, it may be added, is rapidly becoming general in Europe.

Aside from specific recommendations it is somewhat significant of the present trend of interest in labor problems that, exclusive of the subject of child labor, the subject of employers liability appears more frequently in governors messages in 1907 than any other, no less than 10 of 25 messages indexed under Labor in the Digest of Messages containing recommendations concerning it.

Of the 41 state Legislatures which held sessions in 1907 all but 5, those of Alabama, Delaware, Florida, Georgia and Wyoming, passed general laws which are listed under Labor in the Index of Legislation, aside from those relating to child labor. Considering merely number of acts Illinois and Wisconsin lead with 12 each; Missouri follows with 10; Iowa, Massachusetts, New York and Oregon each passed 9; 8 were passed by the state of Washington, 7 each by Kansas and Montana, 6 each by Connecticut, Indiana, Michigan, Minnesota and Pennsylvania, 5 each by Arkansas, Nevada and Texas, 4 each by California, Colorado, New Jersey and North Dakota, while from 1 to 3 were passed in Arizona, Idaho, Maine, Nebraska, New Hampshire, New Mexico, North Carolina, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont and West Virginia. Altogether the Index lists 176 labor laws, besides child labor acts.

If the acts be classified by their principal or most important subjects it appears that over one fourth of them (49) relate chiefly to health and safety of employees; 41 concern enforcement of labor laws, collection of labor statistics, or special investigations; 39 regulate hours of work; 14 have to do with liability of employers for accidental injuries to employees; 13 regulate the payment of wages; 11 concern employment offices, public or private; 4 have to do with labor disputes, blacklisting etc., leaving 5 in a miscellaneous group. Each of these groups may conveniently be considered separately. Reference to individual laws is made only where such are of unusual importance or interest.

### Health and safety

**Factories.** Out of the 12 acts which amend or add to existing factory regulations the most notable perhaps is an Oregon law ('07 ch.158), which brings that state into the numerous company of manufacturing states which require the guarding of machinery, elevators and stairways, together with the proper ventilation of factories and shops and the removal of dust by exhaust fans. The

other acts under this head supplement health and safety laws already in existence, nearly all of these having to do with the safeguarding of health rather than safety from accidents. Of newer provisions in the several states mention may be made of a requirement of medical and surgical appliances and of cuspidors in factories in Massachusetts ('07 ch.164, 503), and of fresh drinking water in Rhode Island ('07 ch.1429). The need of supplementing general requirements for factories and shops by special regulations to meet conditions peculiar to individual industries, which according to European precedent is likely soon to be an important development of American factory legislation, is recognized in two provisions regarding foundries in Michigan and New York and another Michigan law concerning upholstering and mattress establishments. The New York act ('07 ch.485) requires that foundries shall be provided with washrooms and provision for drying clothes. The more notable law of Michigan ('07 ch.152) contains not only both these provisions, but others for proper heating, lighting, hot water for washing, prevention of drafts, emergency supplies in case of burns or accidents, exhaust fans for steam, gases etc. and proper pits and passageways. For upholstering establishments using hair, moss, tow or cotton, Michigan requires ('07 ch.252), in the discretion of the Commissioner of Labor, picking machines which will carry away all dust.

**Mines etc.** The hazardous character of the miner's occupation has long been recognized by laws in the mining states, designed to safeguard the miner in his work; but the occupation is still a fruitful field for protective legislation as evidenced by the fact that no less than 17 such acts appear among the labor laws of 1907. 10 of these are acts of Illinois, Indiana and Missouri, which supplement or amend the already well developed mining laws of those states, notably in respect to safety in the use of explosives and blasting, and this same point of danger is treated of in Iowa and Kansas acts. In 1907 Arizona took the first step toward the protection of her miners by prescribing ('07 ch.72) a system of mine bell signals, while Texas, which before had had only a requirement of sufficient means of ingress and egress, established a general code of regulations ('07 ch.178) with provision for a State Mining Inspector to enforce them. Closely akin to mining as a hazardous occupation is the work of tunnel construction. The large amount of such work in connection with New York city's subways led the Legislature of New York ('07 ch.399) to prescribe regulations for such work similar to those for mines.



**Railways.** The safeguarding of railway employees from the notorious dangers of their employment was the object of 13 legislative acts in 1907. In Minnesota and Missouri requirements of air brakes, automatic couplers, standard drawbars or grab irons, after the manner of the federal statute, are noted. Missouri also requires the filling and blocking of switches and frogs and Washington has added to a similar requirement prohibition of the employment of a flagman who can not read, write and speak the English language. Montana establishes certain requirements in the construction of cabooses (size, suitable water-closets, proper platforms, guard rails, etc.) with a view to comfort and safety. The modern development in the use of electricity for commercial and manufacturing purposes has added a new danger to the other perils of the trainman's employment on top of freight cars, and acts appear in Indiana, Iowa, Oregon and Wisconsin designed to meet this danger by regulating the height of electric wires which cross railroad tracks. It is of late a common complaint of railroad employees that the introduction of air brakes on freight trains together with the use of more powerful locomotives has resulted in the lengthening of freight trains without any increase, or even with reduction, of the number of men in train crews, whereby the responsibility and labor imposed upon each individual has been increased beyond the point of safety or justice. An Arkansas law ('07 ch.116) apparently recognizes the soundness of this contention by prescribing a minimum number of employees for train crews. A number of other states have similar enactments. The unnecessary dangers from exposure to the weather, which menace street car men on open platforms, are now quite well recognized and Montana ('07 ch.78) has followed other states by requiring "sufficient inclosure" of platforms to afford the necessary protection, while Iowa ('07 ch.37) has advanced her requirement since 1898 of inclosure on three sides, to inclosure on all sides.

**Building.** Liability to accidental injury has been greatly increased for workmen in the building trades by the increasing size and height of modern buildings and the use of heavier materials and of mechanical contrivances in connection with the work. These dangers have been recognized by legislation in a number of states, to which are now added Connecticut ('07 ch.152) and Illinois ('07 ch.312), while Pennsylvania has added to her existing requirement. The Illinois act is somewhat notable as the most elaborate of such laws at the present time in this country. In other states the regulations are almost entirely confined to the insuring of safe scaffolds,



guarding of hoistway openings and laying of floors as the building progresses. In addition to detailed requirements on these points the Illinois law contains provisions to prevent overloading of floors, to secure proper supporting of walls and to insure effective signal systems for hoisting apparatus.

**Miscellaneous.** Of three other "safety" laws found in the legislation of 1907, one may be mentioned as being one of a very few laws in this country dealing with the hazards of agricultural occupations. A Michigan act ('07 ch.124) requires guards for corn huskers, following a similar law in Wisconsin. Only two other laws of this sort for agricultural operations exist at present, namely, Illinois and Iowa statutes for the guarding of threshers.

### Hours

**Women and minors.** Up to the present time there has been a gradual but pretty steady extension of restrictions upon the hours of labor of women and minors, and six out of seven laws of 1907 upon this subject are in line with this general trend. Such restrictions most commonly take the form of a specific limitation of number of hours which may be worked per day or per week, or of prohibition of night work. Most notable in 1907 are two laws which in two of the southern states limit working hours of women and minors for the first time. Tennessee ('07 ch.308) provides a limit of 62 hours for females and children under 16 in factories, beginning January 1, 1908, with progressive reduction to 61 and 60 at the opening of 1909 and 1910 respectively. South Carolina ('07 ch.233) establishes a 10 hour day and a 60 hour week for all operatives in cotton and woolen mills, except mechanics, engineers, firemen, watchmen, teamsters, yard employees and clerical force, a limitation remarkable in that, in form at least, it might include adult males, though doubtless intended primarily to affect women and minors. Five states with restrictions already, have advanced the same. Connecticut and New Hampshire have reduced the weekly limit from 60 to 58 hours, the former for both factories and mercantile establishments, the latter for factories; Michigan has extended a 60 hour limit in factories and stores from females under 21 to all women; Oregon extends a 10 hour day from factories to mercantile establishments, hotels and laundries; and Massachusetts increases the prohibited hours of night work in textile mills from those between 10 p. m. and 6 a. m. to those between 6 p. m. and 6 a. m.

In the opposite direction from the above statutes is a decision of the highest court in New York State (*People v. Williams*, 189 N. Y. 131, or 81 N. E. 778) which unanimously holds that part of the New York labor law which prohibited night work of adult females to be unconstitutional, on the ground that it is an infringement of the freedom of contract guaranteed by the Constitution, not justifiable as an exercise of the police power of the State. One may be permitted to remark that it is to be regretted that the court's opinion in this case, while emphasizing in full the familiar argument for protection of freedom of contract on the principle of *laissez faire*, nevertheless lacks entirely any evidence of examination of the conditions of modern industrial life which might bear upon the question of whether night work actually does or does not menace the health or morals of women. This criticism of inadequate consideration of the actual facts of industry is one not infrequently heard of late in connection with decisions on laws concerning labor and industry. It does not always imply narrowness on the part of the courts, but may be due to inadequate presentation of the facts to them, which in turn may be due to lack of the necessary data for such presentation. All of which simply emphasizes the need for comprehensive and accurate investigation of the various labor problems, which are the concern of labor laws, both for courts and Legislatures. Knowledge of legal precepts is still far in advance of knowledge of the actual facts of life in these matters.

**Railways.** The year 1907 is notable for a widespread extension of limitations upon hours of work of railway employees, representing mingled consideration of the welfare of the employee and regard for the safety of the traveling public, for which the reports of the Interstate Commerce Commission as to railway accidents caused by excessive hours of labor are doubtless to be assigned as the chief inspiration. In addition to a federal law establishing a limit of 16 hours for a day's work for employees in train service and nine hours for train despatchers and telegraphers, no less than 18 of the states passed similar acts. The 16 hour limit in train service is adopted by Indiana, Iowa, Kansas, Minnesota, Montana, North Dakota, South Dakota and Washington; an eight hour limit is established for train despatchers and telegraphers in Arkansas, Connecticut, Missouri, Nevada, New York and West Virginia; both the above restrictions are laid down in North Carolina and Wisconsin; while Oregon and Texas establish a general limit of 14 hours for train service. It will be observed that all the state laws concerning



train despatchers and telegraphers go beyond the federal limit for interstate commerce of nine hours, to eight hours.

In addition to the above laws concerning hours of labor on steam railroads New York prescribed in 1907 a 10 hour day for employees on street surface and elevated railroads.

**Public work, mines etc.** Among nine other laws of 1907 dealing with the hours of work of adult males, mention may be made of one in Oregon by which that state joins the ranks of those which, on the principle that the state should set the highest standard of conditions of employment, prescribe an eight hour day on public work. Another Oregon law and one in Idaho prescribe an eight hour day for underground miners, after the manner of similar laws in several other western states. California enacts a 10 hour day and a 60 hour week, for drug clerks. Notable as being in line with recent legislation in European countries is a Massachusetts law prescribing one day's rest in seven for working people required to work on Sunday. This is only the second general law of the kind in this country, California having passed such an act in 1906.

### **Employers liability**

The problem of industrial accidents, not only from the point of view of prevention but even more from that of remedy for those not preventable, presses upon the attention of the Legislatures as knowledge of the appalling number of accidents and the inadequacy of the relief afforded to injured employees by the present law of employers liability increases. A list of 14 state enactments bears witness to this in 1907. Thus far this pressure for relief by legislation has almost exclusively been in the direction of increasing the legal liability of employers for damages to injured employees. The familiar means of accomplishing this have been limitation or abolition of the fellow servant doctrine, limitations upon assumption of risk, and prohibition of "contracting out." To these several of the 1907 acts add the recent principle (in legislation) of comparative negligence, after the model of the federal railway liability act of 1906. Four western states, Nebraska, Nevada, North and South Dakota, copy that federal act with its abolition of the fellow servant rule, adoption of the rule of comparative negligence, and prohibition of contracting out, coupled with allowance of a set-off against damages, of contributions by an employer to an injured employee in the way of benefits etc. Arkansas abolishes the fellow servant rule as to railways and mines, and Missouri as to



mines, coupled with prohibition of contracting out. California and Pennsylvania limit the fellow servant rule, and the former restricts also assumption of risk and prohibits contracting out. Wisconsin adopts the comparative negligence rule for railroads, adding prohibition of contracting out and this latter prohibition as to railroads appears also in Indiana and Texas. Iowa restricts assumption of risk in the usual form with reference to defective machines or appliances. Two court decisions, by the Supreme Courts in Indiana (*Bedford Quarries Co. v. Bough*, 80 N. E. 529) and Mississippi (*Bradford Construction Co. v. Heflin*, 42 S. 174), declaring employers liability acts unconstitutional, in whole or in part, agree in holding that such acts drawn to apply to "corporations" violate the guaranty of equal protection of laws in the federal Constitution, in the one case on the ground that such an act imposes a burden on corporations not imposed on individuals, and in the other on the ground that it does not treat all corporations alike since it does not take account of differences arising out of the nature of the business of different corporations presumably with reference to the hazards of employment.

### Wages

Many states have found it necessary to pass laws to insure to employees the receipt of the full value of wages earned by them, by compelling payment in cash or within a certain period. Among several acts in 1907 dealing with this subject most are amendments of former laws, except one in Oregon, which sets up in that state the requirement of cash payment of wages, together with another act prohibiting coercion to force employees to patronize company stores or boarding houses. No less than three decisions of state Supreme Courts (Arkansas, Indiana and Texas) are noted in the 1907 Index of Legislation, which declare cash or monthly payment laws unconstitutional, all, however, without throwing any new light on the question of whether such laws are a valid exercise of the police power of the state. Two of the decisions (Arkansas and Indiana) rest simply on the ground of unlawful discrimination, the Arkansas cash payment law exempting mines with less than 20 employees, and the Indiana monthly payment law applying only to corporations. The Texas decision on a cash payment act finds no reason to suppose that the latter is a police regulation but does see in it an interference with freedom of contract.

Another class of "wages" laws has to do with restrictions upon assignment of future wages, and three such acts appear in 1907.

Interesting features of these appear in requirements in Colorado and Maine that assignments must be recorded with county or town clerks, and in Colorado that the assignor's wife or husband must sign also, if the assignments are to be valid. Colorado ('07 ch.241) also undertakes to regulate wage brokers by a license system.

### Unemployment

Legislation concerning unemployment in 1907 followed the familiar lines of provision for free public employment offices or regulation of private agencies. Most notable of the acts in this field are Colorado and Minnesota laws providing for state employment offices. Colorado provides for two in each city of 200,000 inhabitants or over, and one in each city of not less than 25,000, while Minnesota provides for one in each city having 50,000 or more inhabitants, these offices in both states to be under the Commissioners of Labor. Of acts regulating private agencies mention may be made of two quite elaborate laws, much resembling each other, in New Jersey and Pennsylvania, the license form of control being adopted in both. Requirement of license, though in no such comprehensive fashion, is also established in Iowa and South Carolina.

### Labor disputes

It is a notable fact that in the last few years, although labor disputes have been not less prevalent than formerly, there has been but little legislation dealing with the problems arising out of such disputes. So far as providing for settlement of disputes is concerned, earlier laws had quite generally made such provision, or the results achieved under such laws have been so meager in many cases as to discourage their further extension. As for the problems which have more recently become prominent, such as the rights of union and nonunion men, boycotting and injunctions in strikes, the tendency has been, as previously noted in this series of Reviews of Legislation, to leave the courts to handle these under the principles of the common law. The year 1907 was no exception in this regard. Colorado abolished her law providing for a state and local boards of arbitration, which had as a matter of fact been largely a dead letter, but another western state, Nevada, passed a law providing for voluntary temporary boards, a measure for which as a matter of fact experience in other states offers small promise of success. A Texas act prohibiting blacklisting is in line with several such laws in other states. A Utah act, one sentence in length, touches the familiar present day question of the rights of



the nonunion workman, but does little more than touch it as it simply declares that it shall be a misdemeanor for any person or combination of persons to interfere with the constitutional rights of any person to work where, for whom and at what wage he pleases.

### **Enforcement. Statistics. Special investigations**

**Enforcement.** The great bulk of existing labor legislation in the United States consists of protective laws. The value of such laws is largely dependent upon the effectiveness of their enforcement, and it is safe to say that at the present time the problem of adequate enforcement is quite as important in many states as that of new legislation. It is not surprising, therefore, and must be taken in general as encouraging, to find no less than 23 acts of 1907 in a dozen different states providing for larger or better paid inspection service or for more adequate penalties or authority for enforcement. 14 of these have to do with factories or shops and 9 with mines. There is no occasion to mention any of these statutes individually, except perhaps a New Jersey act ('07 ch.17), which copies a New York law of 1906, which provides for the enforcement of cleanliness and sanitary provisions in bakeries through immediate stoppage of work by means of posted notice until such provisions are complied with. The advantages in directness, certainty and promptness of this method of enforcement over the more familiar method of court prosecution, especially in matters of cleanliness, are obvious.

**Statistics. Special investigations.** The necessity for comprehensive and accurate information concerning labor, as a basis for sound legislation or wise direction of labor movements, finds recognition in 14 laws of 1907, 8 of which have to do with permanent bureaus of labor statistics while 6 concern special investigations or conferences. Of the former it may be noted that 4 are generally in the direction of more efficient bureaus by provision for more or better paid officers or assistants. 2 others are individually noteworthy. An act of Missouri ('07 ch.329) separates entirely the Bureau of Statistics from the work of factory inspection, which is also separately provided for. An Illinois act ('07 ch.308) requires under penalty that all serious industrial accidents shall be reported to the Bureau of Labor Statistics, which is required to publish annual statistics of the same. This is the first law providing specifically for the collection of accident statistics for all industries, which is entirely independent of laws for the prevention of accidents. It



seems probable that the demand for such general statistics of accidents is likely to increase in view of the widely growing interest in the problem of industrial accidents as one of insurance or compensation as well as prevention.

Among the acts of 1907 concerning special investigations three are notable. An Illinois joint resolution ('07 p.586) recognizes the prominence which the problem of occupational hygiene is rapidly assuming, by providing for a special commission of nine to "thoroughly investigate causes and conditions relating to diseases in occupations" and to report suitable preventive or remedial measures. Such an investigation was recommended by the Illinois Industrial Insurance Commission, appointed in 1906 and which reported in 1907 but whose insurance plan for industrial accidents, it may be noted here, was not adopted by the Legislature. A Connecticut law ('07 special acts ch.10) provides for a special commission to investigate the subject of employers liability for accidents to employees. At first directed to report to the session of 1907, this commission was later given until the next session to make its report. Quite unique in the line of special investigations is a Tennessee law ('07 p.2245), which aims at the greatly to be desired end of uniformity in state labor laws, in view of the present day interstate competition in industry, by directing the Governor of the state to call a conference of representatives of manufacturers and organized labor in the South for the purpose of considering and recommending uniform woman and child labor laws for factories, to be adopted by all the cotton states.

#### SESSIONS OF 1908

Truly remarkable among the executive recommendations concerning labor in the Digest of Messages 1908, is the program of labor legislation to be found in the annual message of President Roosevelt of December 1907, and his special message of March 1908. Putting together the various recommendations, one finds a program which includes an eight hour day for all government work, a model child labor law for the District of Columbia, compensation for accidental injuries to workmen, and compulsory investigation of labor disputes. Emphasis is given to all of these by the fact that they are all renewed recommendations of the previous year. Not the least interesting thing about them is the fact that although made to Congress with specific reference only to the comparatively limited field of federal authority as to industrial matters, every one of them, in somewhat characteristic Roosevelt fashion, is set forth, either

in this or last year's form, as an ideal not only for federal but for state legislation. In view of the central position which the subjects now hold among present day labor problems in this country it is scarcely an exaggeration to say that the above program puts the federal executive in the position of pace maker for most of the states.

Among the dozen governors' messages of 1908 which refer to labor, three recommendations are noted as somewhat more significant than others. The Governor of Ohio notes the new problems created in the coal mining industry by the transition from hand to mechanical mining methods. As a result he finds that the existing mining laws of Ohio are unsatisfactory to both miners and operators, and recommends a special commission to investigate and report on the necessary legislation to meet the new conditions. In contrast to the backwardness of many of the Southern States in the matter of woman and child labor laws appears a decidedly progressive spirit in a recommendation of the Governor of Louisiana. An act of 1906 in that state established the 10 hour day and 60 hour week for women and children. Only two years later we now find the chief executive recommending that the limit be reduced to 54 hours per week. In view of the inefficiency or downright failure of many, if not most, of the state boards of conciliation or arbitration which various of the states have created, there is something rather refreshing in the startlingly blunt declaration of Governor Fort of New Jersey that "The Board of Arbitration as existing in our state should be abolished. It is impossible to conceive how any defense for its retention can be made. The drawing of salaries by public officials who do absolutely nothing, and can do nothing, under existing conditions, makes the payment of this money out of the State Treasury, a crime against public morality."

Out of 24 state Legislatures which were in session in 1908, there were 15 which passed one or more laws listed under Labor in the Index of Legislation, leaving out of account those relating to child labor, which subject is considered in another review. The total number of such labor laws in these 15 states was 62. In a table below may be seen the distribution of these laws among the states and according to the principal subject of each. With reference to subjects, it will be seen that health and safety was the most frequent subject of legislation, with acts relating to enforcement of laws, statistics or special investigations in second place, followed by laws concerning employers liability, etc. and then a group relating to wages. A glance at the distribution by states shows that most of



the labor laws of 1908 are to be found in the five states of Massachusetts, Ohio, Louisiana, Oklahoma and New York. It will be profitable, perhaps, to consider the legislation in each of these states separately, after first noting a few laws of some special interest in the other states.

### Distribution of labor laws of 1908 by states and principal subjects

STATES	PRINCIPAL SUBJECTS OF LAWS								Total
	Health and safety	Hours of work	Wages	Employers liability. Insurance	Unemployment	Organization, disputes etc.	Enforcement Statistics Investigations	Miscellaneous	
Illinois.....	2	.....	.....	.....	.....	.....	1	.....	3
Indiana.....	1	.....	.....	.....	.....	.....	.....	.....	1
Kentucky.....	1	.....	.....	.....	.....	.....	.....	.....	1
Louisiana.....	3	.....	1	.....	.....	.....	1	2	7
Maryland.....	1	.....	.....	.....	.....	.....	.....	.....	1
Massachusetts.....	1	1	2	5	3	.....	6	.....	18
Mississippi.....	.....	.....	.....	1	.....	1	.....	.....	2
New Jersey.....	.....	.....	.....	.....	.....	1	2	.....	3
New York.....	3	.....	2	.....	.....	.....	1	.....	6
Ohio.....	4	.....	.....	2	.....	.....	2	.....	8
Oklahoma.....	3	1	.....	.....	.....	2	1	.....	7
Rhode Island.....	.....	.....	1	.....	1	.....	.....	.....	2
South Carolina.....	.....	.....	.....	.....	.....	.....	.....	1	1
Virginia.....	1	.....	.....	.....	.....	.....	.....	.....	1
West Virginia.....	1	.....	.....	.....	.....	.....	.....	.....	1
<b>Total.....</b>	<b>21</b>	<b>2</b>	<b>6</b>	<b>8</b>	<b>4</b>	<b>4</b>	<b>14</b>	<b>3</b>	<b>62</b>

Among the laws enacted in states other than those considered below, mention may be made of six, which while neither novel nor highly significant in the general field of labor legislation, nevertheless mark distinct progress in each case for that particular state. A Virginia act ('08 ch.228) requiring proprietors of peanut cleaning establishments and cotton factories to furnish employees who may wish to use them with sponge shields to prevent inhalation of dust is interesting both in connection with the widening campaign against tuberculosis and as an example of special protective devices for particular industries which, though common in Europe, are as yet but little known here. A Maryland law ('08 ch.724) adds another state to the list of those which have recently taken account of the transformation in the character of freight train



service, due to heavier engines and air brakes, by requiring a minimum number of men in a train crew, in this instance six men for a train of over 30 cars. Mississippi ('08 ch.194) has abolished completely the fellow servant doctrine in the case of accidents to railroad employees. Rhode Island ('08 ch.1528) provides for the establishment of free public employment offices. New Jersey ('08 ch.25), following Governor Fort's recommendation, has abolished its useless State Board of Arbitration. Illinois by a joint resolution (finally concurred in, November 1907) provides for the third important special investigating commission in that state within three years to consider labor problems, in a commission to consider the "most advisable method, or methods, for providing for the health, comfort and safety of the employees of factories, mercantile establishments, mills and workshops." The previous Illinois commissions just referred to are the Industrial Insurance Commission of 1905 and the Occupational Diseases Commission of 1907, both noted in the Reviews of those years.

**Massachusetts.** Among the 18 Massachusetts laws listed under Labor in the Index, a group of 5 concerning employers liability and compensation for accidents is of leading importance. Two of these amend the existing liability laws upon points of procedure only. Two others, however, extend those laws, the one without change in the principle of the law by simply extending the existing railway liability law specifically to elevated railways, but the other with a change in the fellow servant doctrine by a declaration that an employee of a railroad corporation injured by a locomotive, car or train, through the negligence of any other employee shall not be deemed to have assumed the risk of such injury. This Massachusetts law is only one of numerous recent laws in this country, all in the direction of limiting the much complained of fellow servant doctrine. But a novel measure is to be seen in an act ('08 ch.489) which permits the establishment of compensation systems for industrial accidents by employers, under which, when the plan has been duly certificated after examination and public hearing by the State Board of Conciliation and Arbitration, the compensation plan may be substituted, by contract between employer and employees, for the legal liability of the employer for damages in case of accidental injuries.

The limit of weekly working time of women in Massachusetts factories is reduced from 58 to 56 hours, except that in seasonal occupations up to 58 hours may still be worked, but the yearly average in these must not exceed 56. An interesting attempt along

unusual lines, to deal with the problem of assignment of wages is found in an act ('08 ch.605) providing for the licensing of persons making small loans with rates of interest to be fixed by the licensing authorities, together with a requirement of the written consent of the employee's wife and employer to an assignment of his wages for loan.

Among three laws dealing with the subject of unemployment one ('08 ch.306) is notable as suggesting an inexpensive and practicable method of widely disseminating information as to the demand for labor at the state free employment offices. The act authorizes the Bureau of Statistics of Labor to furnish weekly bulletins showing such demand, by classified occupations and by localities, to city and town clerks for public posting.

Among the group of six laws which have to do with enforcement, statistics etc. mention need be made in passing only of one limiting appointments as factory inspector to persons not over 50 years of age and of one providing for a codification of the state's labor laws.

**Ohio.** Of the eight Ohio labor laws here considered five have to do with the mining laws for the protection of the health and safety of miners, whose generally unsatisfactory condition was noted by the Governor with recommendation for a special commission to investigate the subject. The Legislature provided for such a commission and in addition made immediate changes in the existing statutes, adding provisions to prevent the employment of incompetent miners, to regulate better the use of explosives, to guard electric wires and machines, and amending the provisions concerning inspection service, ventilation, shafts, safety lamps, etc.

In addition to this important overhauling of her mining laws, the Ohio Legislature also dealt with the question of employers liability, in two acts which should here be noted. These proceed along lines familiar in other states and in the federal railway liability law, by abolishing the fellow servant rule for railroad employees in road service, by limiting assumption of risk in case of defective appliances, by introducing the principle of comparative degree with reference to contributory negligence, and by prohibiting contracting out in connection with relief associations, all of this for railroads only.

**Louisiana.** In the group of seven labor laws of Louisiana in 1908 first place for importance must be given to an act ('08 ch.301) which virtually codifies and much extends and strengthens the woman and child labor laws of that state. The



prohibited age limit for employment of boys is raised from 12 to 14 years, age certificates are required for children between 14 and 16, and the factory inspectors may require physicians' certificates of physical fitness for work in the case of children. The woman and child labor law is extended to cover all factories and mercantile establishments employing over five persons, to messenger service, theaters etc. and night work is largely prohibited for boys under 16 and girls under 18. Requirement of elevator guards and exhaust fans and prohibition of cleaning moving machinery by women or minors are other extensions of the law which may be mentioned. In view of the generally backward condition of the woman and child labor laws in southern states this substantial advance in Louisiana is especially notable.

A second Louisiana labor law of 1908 is notable for progressiveness. This is an act ('08 ch.264) for the protection of workmen employed in building work, which copies with only slight modification the Illinois law of 1907 which was noted in last year's Review as the most elaborate law on this subject at that time in this country.

Of the other Louisiana acts two only need be specially alluded to. One supplements the extended factory laws above mentioned, by adding to the duties of the Commissioner of Labor and Industrial Statistics, which were formerly limited to statistical work, the work of inspection of factories, mercantile establishments, etc. and of enforcing the labor laws therein, and by providing that all inspectors shall be deputies of the State Commissioner of Labor and all appointed by him except in New Orleans, where a factory inspector is to be appointed by the Mayor. Heretofore the inspectors throughout the state were all officers of the local authorities only. The other act referred to is one requiring that on all state work preference in employment shall be given to citizens of Louisiana.

**Oklahoma.** The Constitution of the new state of Oklahoma was ratified in September 1907, and the first state Legislature convened in December following. The seven labor laws enacted at this session, which are listed in this year's Index, together make up quite a comprehensive labor code. Under them Oklahoma begins her statehood career with a Department of Labor headed by an elected commissioner, in which department there is a State Board of Arbitration, a Free Employment Bureau and a Factory Inspector, and provision for collection of certain labor statistics by the commissioner; with factory laws regulating the employment of children, guarding of machinery, elevators and stairways, lighting, fire escapes, and toilet facilities; with an elected Mining Inspector and



mining laws for the protection of miners, including the eight hour day; with a law for safe scaffolding, hoists and floors in building work; with an eight hour day for public work; with state regulation of private employment agencies; and with laws concerning black-listing, right of union membership and strike breakers.

With few exceptions the provisions of these laws follow lines familiar in other states. Upon the points which they cover, however, they are generally abreast of the more advanced legislation elsewhere and in a few cases contain distinctly progressive features for American labor laws. Notable among these is a provision that the Superintendent of the State Board of Health, the Commissioner of Labor and the Factory Inspector shall formulate and enforce "such rules as they may deem necessary" for the sanitary regulation of factories. This would appear to authorize administrative factory regulations after the practical European fashion. In this connection also may be mentioned a provision permitting the Factory Inspector to demand a physician's certificate of physical fitness for work in case of children and to prohibit employment of any minor who can not produce such a certificate.

But the most remarkable thing about the Oklahoma labor laws is that a number of them simply carry out specific provisions of the Constitution of 1907, or rather that the Constitution itself contains so much labor legislation. A reading of that Constitution reveals the following provisions therein: the eight hour day for government work; prohibition of contract convict labor; prohibition of employment of children under 15 in dangerous trades; prohibition of employment of boys under 16 or women and girls in mines; the eight hour day in mines; provision for a Department of Labor, a Mine Inspector and a Board of Arbitration with the Labor Commissioner and Mine Inspector elected officers; requirement that the Legislature shall pass health and safety laws for employees of factories, mines and railroads; a clause making the defense of contributory negligence or assumption of risk in all cases questions of fact for the jury; and abolition of the fellow servant doctrine in case of railroads and mines. Manifestly questions of constitutionality are not likely to disturb some of Oklahoma's labor laws at least.

**New York.** Of the six New York acts indexed under Labor, two concern only minor details of the health and safety laws. The other four, however, deserve individual mention. These are all protective laws. One transfers the enforcement of the laws concerning employment of women and children in mercantile establish-

ments in cities of the first class (New York, Buffalo and Rochester) from the local health authorities to the State Department of Labor, a change made as the result of repeated charges of inadequate enforcement by local authorities. Corporations in New York state have long been required to pay wages weekly but from this the steam railroads have been specially exempted and required to pay only monthly. This discrimination against railroad employees is softened by a 1908 law which will require payment by railroads semimonthly hereafter. Another act in the interest of railroad employees is one requiring the equipment of cabooses with safe platforms, while by the fourth law above referred to the requirement that wages shall be paid in cash is extended to include ice harvesting, an industry often conducted in places away from villages or towns and with temporary housing of laborers, where, accordingly, the company store with its possible abuses is likely to flourish.

*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 39b

**CRIMES AND OFFENSES**

DEMARCHUS C. BROWN, INDIANA STATE LIBRARIAN, MEMBER OF THE  
INDIANA BOARD OF STATE CHARITIES

There are several marked indications in the legislation of 1907 and 1908 on the subject of crimes and offenses.

1 There has been a very serious effort apparently to get at the foundation, the causes of crime and delinquency and find out whether this foundation is heredity or lack of training or association with criminals or whether in any special degree it is physical. This shows a growth in the treatment of what is called "crime." The legislators have stopped long enough to try to find the apparent reason for the increase in delinquency.

2 The tendency toward a more scientific treatment until a cure is reached is very marked. It is not only the question of punishment and protection to society but also the making of a good citizen out of the criminal. The term scientific in connection with religion and charity has frightened people heretofore, but it is now coming to be the basis of the treatment of those who have gone wrong in the eyes of the law.

3 Legislation on the liquor problem and its connection with crime has been very widespread. Perhaps one half of the states in the Union have been considering this question, some more radically than may be wise but all seriously.

4 For certain crimes the penalties have been made much more severe. This is not necessarily inconsistent with the study of the causes of crime and its scientific treatment. It is quite probable that there will be a reaction from these severe penalties so that the average will be higher than it is now and perhaps more effective.

As an illustration of the above points the state of New Jersey has appointed a commission of nine men and women to make a careful study of the causes of crime and dependency. This commission is composed of high minded people willing to serve the state without pay, as the law establishing the commission requires.

**Burglary.** Many states have legislated upon this subject and many have increased the term of punishment. This is especially



true where the offense has been committed with explosives. For instance: Colorado in 1907 made this offense punishable by imprisonment from 25 to 40 years. Indiana in 1907 made burglary punishable by from 20 to 30 years for second conviction. Iowa, Michigan, Minnesota, Missouri, Montana, North Dakota, South Carolina, Oregon, Utah and California, all in 1907, have joined the ranks and made the penalty anywhere from 5 to 40 years. One or two, notably Nebraska and California, have made burglary with explosives punishable by a life sentence in the discretion of the court.

**Concealed weapons.** The sentiment against carrying concealed weapons has become very pronounced and has shown itself in Legislatures by severe penalties. It has become evident that many homicides are caused by the fact that men have weapons about them and in their sudden passions make use of them. The Governors of Delaware and Kentucky urged in their messages that it be made a misdemeanor even to point a weapon at anybody. This may seem to be extreme but it shows the way sentiment is crystalizing against this custom. Alabama in 1907 made the sale or trading of arms a misdemeanor punishable by jail sentence. Massachusetts, Rhode Island and Virginia in 1908, and Arkansas, Connecticut and Minnesota in 1907 passed more rigid laws upon this subject.

**Kidnapping.** Some states have legislated upon this subject and the tendency has been to increase the penalty. New York in 1907 made the penalty 25 years imprisonment.

**Gambling and pool selling.** There have been many varieties of penalties and degrees of severity in the various states on the subject of gambling and pool selling. The legislation has been all but universal as may be seen by the following list of states: Louisiana in 1908, Kentucky in 1908, New York in 1908 (especially applying to horse races), Missouri, Tennessee, North Dakota, Connecticut, Delaware, Kansas, Massachusetts, Montana, New Mexico, Nevada, Texas and Arkansas in 1907. It is interesting to note that Texas and Montana have been the most severe in the penalties to be inflicted for this offense. Texas for instance fixes imprisonment from two to four years for having gambling devices or for renting rooms for gambling. Montana makes it larceny to obtain money by gambling and imprisonment for five years for brace games. Missouri also makes gambling a felony with punishment in the state prison from two to five years.

**Liquor selling.** This ordinarily may be classed by itself, that is to say, not under crimes, but so many states have made it a

misdemeanor and even a prison offense that it must be classed under the heading here given. The Southern States in particular have been severe against this business and so far as one can observe are still pushing ahead in trying to prevent the sale of liquor. Texas, Georgia and Arkansas in 1907 made the sale of liquor under certain conditions a misdemeanor punishable by fine or jail sentence. North Carolina in 1908 and South Carolina in 1907 made the sale a misdemeanor punishable by prison sentence. The list of states which have passed legislation upon this subject covers almost the entire Union and the legislation affects public drinking in a passenger coach, the sale of liquor by druggists, the deception in the manufacture of California wines, the renting of buildings for saloon purposes, the soliciting of orders for liquors, the use of liquors at polling places, the sale of liquors to minors, the admission of minors to dance halls where liquor is sold, the sending of children to saloons, the revocation of license and many other phases of the subject. The penalties range from a fine of \$5 to imprisonment.

**Crime against children.** The disposition to find the causes of crime and to prevent it is shown in the fact that in some states more power has been given to the courts to punish those who are the cause of the dependency and delinquency of children. We can all remember when the policy was to punish children and not those who were the cause of their wrong doing. Illinois and Iowa in 1907 made certain crimes against children punishable by from one to 20 years in the former state and three years in the latter. Many other states have given wide discretion to the juvenile court judges in punishment of those who cause the downfall of children. It is a matter of gratification also to know that many Governors have recommended better laws for the treatment of juveniles in reform schools, for the separation of boys from older criminals, as in North Carolina, Tennessee, Minnesota and Utah.

**Cruelty to animals.** The disposition to improve conditions extends even to the treatment of animals. In New Hampshire in 1907 cruelty to animals was made a prison offense, one year. A few other states simply modify their present laws on the subject, showing a disposition to increase the penalties.

**Outrage.** The legislation on this crime has been confined quite exclusively to the Southern States. The penalty enacted has been uniformly that of death. In nearly all the states where there has been legislation on this subject there has gone with it the privilege of giving testimony in the presence of the court and jury and attorneys only.



**Miscellaneous.** There has been legislation on the subject of cigarette smoking in seven states, in three of which it has been made a misdemeanor.

The bribing of a public officer has been made punishable in Minnesota by imprisonment for 10 years or a fine of \$5000.

In a dozen states the sale and use of narcotics, cocaine etc. has been made a misdemeanor, for instance in Louisiana, Massachusetts, New Jersey and Georgia in 1908, in Indiana, North Carolina, South Carolina and Utah in 1907. It was made a felony in New York and in Virginia in 1908.

The death penalty has been fixed in Louisiana for dynamiting a house occupied by people.

Pandering (white slavery) was made a felony in Illinois in 1908.

**Indeterminate sentence and parole.** There has been a strong current among the Governors for the enactment of indeterminate sentence and parole laws. The Governor of California in 1907 urged the adoption of such a law very strongly. The Governors of Colorado, Kansas and Montana all in 1907 advocated such a law.

**Governors messages.** The Governor of Kansas in 1907 urged very strongly that there be improvements in the jails of the state. He was especially emphatic in advocating the classification of prisoners and also that those awaiting trial should always be kept separate from those who were sentenced. The Governor of Maine in 1907 and of Rhode Island in 1908 urged that the criminal insane be kept apart from other criminals in separate buildings. The Governor of Rhode Island advocated a state hospital for the criminal insane apart from the prison. The Governor of Georgia was very impressive in his advice to stop the leasing of convicts to private companies. It is quite evident that the feeling in the South is turning against the leasing system.

From the preceding survey it can be maintained that during the last two years considerable headway has been made in the treatment of crimes and offenses.



*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 39C

**CORRECTIONS**

GEORGE MCLAUGHLIN M. A., SECRETARY NEW YORK COMMISSION OF  
PRISONS

The general trend of legislation shows increase in compensation to prison employees and a noticeable tendency to eliminate from the names of institutions for the young all words suggesting prison, or even reformatory. They are now given the names of schools, industrial homes, and kindred titles. There has been a pronounced increase in these institutions.

The limited indeterminate sentence similar to the New York law relating to the Elmira Reformatory has been incorporated into the law of very many other states.

There has been notable effort in a number of the states to employ jail convicts in road building. Several states have provided that a portion of the earnings of prisoners shall be used for the benefit of their dependent families. A number of additional states have established plants for the manufacture of binding twine, grain sacks and other products, to be sold to the farmers. In a few instances these plants are to make rakes, mowers, harvesters and binders. An additional number of states have adopted the New York law, with some modifications, relating to prison labor, limiting such labor to state account. There has been a marked tendency to convert prisons into reformatories and provide parole for all penal institutions. Additional states authorized the commitment of habitual criminals for life. Indeterminate sentence and parole are becoming the rule in all the states, rather than the exception, and there has been marked progress in the wider use of probation before commitment.

**Supervision and administration.** Alabama ('07 p.294) increased the salary of the President of the Board of Inspectors of Convicts from \$2400 to \$3000 and of the Associate Inspectors from \$2250 to \$2400; Chief Clerk from \$1500 to \$1800; Chaplain from \$1000 to \$1500; all of said officers to receive traveling expenses in addition.

In the same state ('07 p.335) an act was passed creating the office of Inspector of Jails and Almshouses; such inspector to be a practising physician and learned in the science of sanitation and hygiene, to be appointed by the Governor for a term of four years, salary \$2400 and expenses; required to visit each jail and almshouse at least twice a year. He shall aid in securing just, humane and economical management of these institutions; shall investigate their management and the conduct of their officers. He shall secure the best sanitary conditions of buildings and grounds, and report to the Governor after each visit. He may require reports from officials in charge of institutions and summon before him witnesses. County commissioners are required to comply with recommendations of inspector within 30 days; upon failure to do so, the inspector shall order all persons confined in such institutions to be transferred to jails and almshouses of some other county. Said inspector shall also visit and inspect at least four times a year every cotton mill and factory in the state.

Arizona ('07 ch.5) authorized the Governor to appoint a commission of five to select a site for a Territorial Prison and a Territorial Industrial School, said commission to report to the Governor within 15 days after organization; compensation \$10 per day and mileage, not exceeding 20 days.

Indiana ('07 ch.56) amended the law relating to transfers of prisoners from reformatory to the State Prison by making it the duty of the managers of the reformatory to recall or parole a prisoner transferred from the reformatory, who may be recommended for parole by the Board of Control, by authorizing the Board of Control of the State Prison and the Governor to transfer to the reformatory a prisoner improperly sentenced to the State Prison.

Maine ('07 ch.3) fixed the compensation of inspectors of prisons and jails at \$5 a day and actual traveling expenses.

New York ('07 ch.381) provided for the reorganization of the State Commission of Prisons, increasing its membership from three to seven, to be appointed by the Governor; term of office four years; each commissioner to receive \$10 per day, not exceeding \$500 and expenses in one year. It must hold meetings as often as once each month; its former power and duties were continued. Provision is made for the enforcement of its recommendations by an order of the Supreme Court. It made it the duty of the Attorney General and the district attorneys of the counties to conduct such proceedings as he or they may



deem necessary to remedy the conditions complained of by the commission or its inspectors.

Vermont ('06 ch.191) abolished the board of directors of the State Prison and House of Correction and the board of trustees of the Vermont Industrial School, and created a Board of Penal Institutions to consist of three members, to have all the powers of former boards over both institutions; term of office six years. The Governor may designate one member of such board as purchasing agent for such institutions.

Wyoming ('07 ch.26) made it a felony to introduce any narcotic or firearm into any prison or insane hospital.

**State prisons.** Arizona ('07 ch.97) passed an act removing the Territorial Prison from Yuma to Florence, Pinal co.; the government to be vested in the territorial board of control, said board to have supervision of the construction and equipment, and to obtain plans and specifications for the necessary buildings and proceed with their construction, convict labor and stone from adjacent quarries to be utilized as far as practicable; \$120,000 appropriated.

California ('07 ch.314) repealed the act which constituted the Governor, Lieutenant Governor and Secretary of State a board of State Prison Inspectors and the Lieutenant Governor warden of the prison, and ('07 ch.317) amended the Penal Code relating to the government and management of state prisons by inserting a new title providing for a Board of Directors of State Prisons, which shall have general supervision, appoint the warden, and make annual reports to the Governor.

Idaho ('07 p.97) made it a misdemeanor and punishable by fine not exceeding \$300 or imprisonment not exceeding six months, or both, to illicitly convey any letter or article to or from any convict of the State Penitentiary.

The same state ('07 p.125) increased the salary of the warden from \$1200 to \$1800 and of the deputy from \$1000 to \$1200; all bills for supplies and services to be paid monthly.

Kansas ('07 ch.394) authorized the warden of the State Penitentiary, with the consent of the board of directors, to use the rents received for houses owned by the state for repairing same and for the erection of new houses for rent to employees in the penitentiary.

Minnesota ('07 ch.266) authorized the board of control and the warden, when in their judgment it becomes necessary to



meet current demands on the revolving fund of the State prison, to borrow such sums of money as may be necessary, not to exceed in any one year 75 per cent of the total revolving fund.

New Jersey ('07 ch.190) authorized the board of inspectors and supervisors of the New Jersey State Prison to make contracts for heating the State Prison as well as lighting and furnishing power for its use, such expenditure to be paid out of the maintenance appropriation, no contract to be made for a longer period than five years, or without public advertisement for bids.

New York ('07 ch.521) passed an act, amending the former law, establishing a new state prison in the eastern part of the state to take the place of Sing Sing. This act modified the former provision absolutely requiring a site to contain trap rock for use on public highways and provided that it should contain, *or be convenient to*, a sufficient quantity of trap *or other rock* suitable for use on public highways, and added seven new sections, giving to the Attorney General power to condemn such site selected by the commission if necessary, authorizing the Superintendent of Prisons to transfer prisoners from other prisons to be employed on the site, appropriating an additional \$125,000 for the purchase of the site and the preliminary work of grading, preparation of plans, etc. These amendments further provided for a competition of architects for plans for such new prison and authorized the use of \$10,000 to be paid for awards in such competition.

**Employees.** Arizona ('07 ch.54) increased the salary of the turnkey of the Territorial Prison from \$1500 to \$1800 per annum and of the secretary from \$1200 to \$1500.

Arkansas ('07 ch.140) amended the law relating to the duties of the physician of the State Penitentiary by requiring him to devote his entire time to his official duties in the treatment and care of convicts and other duties connected with the prison. For violation of this provision he shall be removed from office and shall be deemed guilty of a misdemeanor punishable by a fine of not less than \$50. The assistant physician may attend employees of the institution.

Iowa ('07 ch.195) made it the duty of the wardens of the State Penitentiaries to give officers and guards 15 days vacation with pay each year, time to be determined by the warden so that it will not interfere with the management and discipline.

The same state ('07 ch.191) increased the number of guards from 13 at Fort Madison prison to 45, and authorized the employment of 42 at the Animosa prison.

Maine ('07 ch.54) made provision for extra compensation for officers employed at night.

Michigan ('07 ch.57) increased the salary of the several deputy wardens of the prisons of the state from \$1200 to \$1500, of the keepers from \$800 to \$1000 and of the guards from \$700 to \$900.

Missouri ('07 p.371) increased the salary of the matron of the State Penitentiary from \$500 to \$900 and of the turnkeys and guards from \$780 to \$900.

Montana ('07 ch.195) provided an eight hour day for prison guards except in cases of emergency. Violation of this act is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 30 days nor more than six months, or by both such fine and imprisonment.

Texas ('07 ch.27) enacted that penitentiary guards shall be paid \$30 per month (heretofore their compensation was fixed by the penitentiary board).

Vermont ('06 ch.207) authorized the directors and trustees of the State Prison, the House of Correction and the State Industrial School to fix the salaries of the superintendents of their respective institutions at a sum not exceeding \$1500 per annum, with rent and sustenance of themselves and families.

**Reform schools and reformatories.** South Dakota ('07 ch.222) provided that the name of the reform school at Plankington should hereafter be South Dakota Training School.

Colorado ('07 ch.225) amended the law relating to the State Industrial School for Girls by providing that the regular monthly meetings of the board of control may be held either at the school or in the city of Denver. When not held at the school, each member is required personally to visit the institution during the month; the board required to investigate charges made *under oath*; the board given power to return any girl to the county or city from which she had been received who shall be found to be incorrigible or not a proper subject for its care and management.

Connecticut ('07 ch.48) amended the law relating to commitments of girls over 16 years of age to charter institutions, by



including among such institutions those incorporated under the general laws of the state, for the purpose of receiving and caring for girls who have fallen or are in danger of falling into vicious habits, such institution to be first approved by the State Board of Charities.

Indiana ('07 ch.119) changed the name of the Industrial School for Girls to the Indiana Girls' School, to be governed by a board of trustees, consisting of four women appointed by the Governor, each to receive an annual compensation of \$300 and expenses not exceeding \$125. \$30,000 appropriated for furnishing and equipment.

The same state ('07 ch.135) established a house of correction for female delinquents, to be known as the correctional department of the Indiana women's prison, to be a branch of said prison under the same officers, the department to be kept separate from the women's prison. Females above the age of commitment to the Industrial School for Girls and not required to be sent to the women's prison, to be hereafter sent to the correctional department of the women's prison instead of a county jail or workhouse, except that when the imprisonment is 90 days or less, or the defendant shall not be required to serve more than 30 days in payment of fine, it shall be left to the discretion of the court to commit to the correctional department of the women's prison or to the jail or workhouse of the county; inmates of the correctional department to be employed. \$40,000 appropriated for remodeling the wing in the women's prison for such department and equipping same.

Iowa ('07 ch.193) provided that any female heretofore or hereafter convicted of a felony and sentenced to a penitentiary shall be kept in the reformatory at Anamosa.

Maine ('07 ch.31) provided that the cost of maintenance of inmates of the Industrial School for Girls shall hereafter be paid by the state (formerly charged to the city or town of residence).

Minnesota ('07 ch.282) passed an act establishing a State Industrial School for Girls. Upon its completion all girls then in the State Training School for Boys and Girls to be transferred thereto, and thereafter the girls to be sent to this institution; the board of control to select the site; the buildings to be on the cottage plan; financial control and general supervision to be vested in the board of control with authority to appoint a superintendent and other officers and employees; all officers to



be women; the Governor to appoint an advisory board of five women, to be a board of visitation and inspection and serve without compensation except expenses; \$25,000 appropriated for a site and buildings.

Missouri ('07 p.304) amended the law relating to commitments to the Industrial Home for Girls by including among those who may be sentenced thereto any girl whose associations are immoral, or criminal, or bad and vicious, or who is incorrigible to such extent that she can not be controlled by her parents or guardian in whose custody she may be.

Nebraska ('07 ch.65) provided that the physician of the State Industrial Home may be either male or female (heretofore must be a woman).

New Jersey ('07 ch.284) made it a misdemeanor to assist the inmates of the girls' home to escape.

Arizona ('07 ch.48) changed the name of the Territorial Reform School to that of the Territorial Industrial School, and authorized the board of control to increase the salary of the superintendent from \$1800 to \$2500 per annum. Commitments to continue until in the judgment of the board of control, upon the recommendation of the superintendent, such juvenile should be discharged, and not be confined after he has reached the age of 21 years; the board of control authorized to discharge and parole inmates and to provide transportation home. When committed at the request of parent or guardian, the expense of transportation to be borne by the county and subsequent expense by the territory when the parent or guardian by reason of poverty is unable to pay.

California ('07 ch.4) provided that any boy under the age of 18 years undergoing sentence in any State Prison, except a life sentence, may on the recommendation of the board of prison directors, with the approval of the Governor, be transferred to the Whittier State School.

In Florida the Supreme Court in the case of *Pugh v. Bowden*, sheriff, held that chapter 17 of the laws of 1905 was unconstitutional in so far as it authorized the commitment by a judge of the circuit court or a county judge of a person of incorrigible or vicious conduct to the State Reform School without a jury trial.

Florida ('07 ch.126) provided that the officers of the State Reform School at Marianna shall consist of the superintendent,

a physician, and such other officers as the commissioners shall designate; the superintendent to have had experience in the instruction and reform of juvenile offenders. Appropriated \$10,000 for maintenance of institution; \$5000 for buildings and water supply.

Maine ('07 ch.120) provided that the maintenance of inmates of the State School for Boys shall be paid by the state (heretofore by the town where convicted).

Massachusetts ('07 ch.362). Inmates escaping from the Lyman School for Boys or Industrial School for Girls may be arrested by police officers without a warrant.

In the same state the Legislature adopted a resolution ('07 r.121) to provide for an investigation and report of the State Board of Charities relative to the establishment of an industrial school for boys now excluded from the Lyman school by the age limit.

New Hampshire ('07 ch.133) provided that whenever any person is committed to the Industrial School, the cost of his maintenance shall be paid by the State Treasurer (heretofore by the town and county where convicted).

New York ('07 ch.665) amended the act providing for the establishment of a New York State Training School for Boys by providing for a new commission of three, to be appointed by the Governor, to select the site, such site not to exceed 500 acres, to be within 70 miles of New York city (formerly 1000 acres).

North Carolina ('07 ch.509) passed an act establishing a reformatory or manual training school for the detention and reformation of the criminal youth of the state between the ages of 7 and 16 years, such school to be incorporated under the name of the Stonewall Jackson Manual Training and Industrial School, trustees empowered to purchase a site of not less than 100 or more than 500 acres; may receive moneys from private gifts or donations, also from the state; to have the care and custody of children under 16 committed by the superior courts, or recorders, or other criminal courts. After the establishment of the institution the Governor may by order transfer persons under 16 years of age from any jail, chain gang, or penitentiary to the reformatory. Incurables may be transferred to a State Prison, jail or chain gang. Instruction to be given in rudiment branches, trades and manual training. Sexes to be kept separate.



North Dakota ('07 ch.239) passed an act declaring all inmates of the reform school of the state to be wards of and under guardianship and control of the board of trustees.

Pennsylvania ('07 ch.76) passed an act changing the name of the Thaddeus Stevens Industrial Reform School to the Thaddeus Stevens Industrial School of Pennsylvania.

Tennessee ('07 ch.599) passed an act establishing the Tennessee Reformatory for Boys, the government to be vested in five trustees appointed by the Governor, the Governor to be an ex officio member. Boys under 18 convicted of an offense punishable by confinement in a penitentiary to be sentenced to this reformatory and taught some trade or pursuit. Incorrigibles may be transferred to the penitentiary; the inmates may be put on probation, and when reformed, pardoned by the Governor. The superintendent to establish an agricultural and horticultural experiment station. The board of trustees to serve without compensation except expenses. The superintendent shall receive compensation to be fixed by the board of trustees at not exceeding \$200 per month. \$10,000 appropriated to carry the act into effect.

Washington ('07 ch.90) changed the name of the Washington State Reform School to the Washington State Training School.

Iowa ('07 ch.192) changed the name of the penitentiary at Anamosa to the Reformatory, and provided a new system of sentencing thereto and of parole.

Washington ('07 ch.167) established a State Reformatory, the Governor to appoint four electors, who, with the State Board of Control, shall select a site, the State Board of Control to erect necessary buildings; the institution then to be placed under control of a board of five managers to be appointed by the Governor; this board to appoint a superintendent and other officials and fix their compensation. Male criminals between the ages of 16 and 21 *must* be committed to this institution; and those between the ages of 21 and 30 whom the court may deem amenable to reformatory methods, except persons who have been convicted of murder and persons who have been convicted and sentenced more than three times, *may* be committed, the discipline to be reformatory. The courts are not to fix or limit the duration of imprisonment, but it shall not exceed the maximum provided by law for the crime committed nor be less than the minimum. Incorrigibles may be transferred to the



penitentiary; inmates may be paroled. This whole act seems to have been modeled somewhat after the New York law relating to the Elmira Reformatory. The act appropriates \$30,000.

Wisconsin ('07 ch.358) amended the law relating to commitments to the State Reformatory by allowing a person between the ages of 16 and 30 years to be sentenced thereto, although he had previously been convicted of a felony or of a misdemeanor for which he might have been punished by imprisonment in a county jail for one year or more, but who had been committed for such offense to the Wisconsin Industrial School for Boys. In other words, a former commitment to the Wisconsin Industrial School for Boys would not prevent his commitment on his subsequent conviction to the Wisconsin State Reformatory. All sentences to the Reformatory shall be subject to the power of release by parole or absolute discharge.

**Local institutions.** Alabama ('07 p.277) created the office of inspector of jails and almshouses, such inspector to be a practising physician learned in the science of sanitation, to be appointed by the Governor, term four years, salary \$2400 and expenses; the inspector to visit each county jail and almshouse twice a year and make reports to the Governor, furnish copies with recommendations to the board of county commissioners or boards of revenue of the county, such boards required to comply with the recommendations of such reports at once, and within 30 days make a written report to the inspector that such orders have been carried out. On failure to comply, the inspector shall order all persons confined in such jails or almshouses transferred to the jails and almshouses of some other county, there to remain until such recommendations have been complied with at the expense of the county from which they were transferred. Refusal to comply with the orders of the inspector subjects the offender to a fine of not less than \$25 nor more than \$100 for each offense. Such inspector shall also visit every cotton mill and factory in the state at least four times a year and inspect same as to their sanitary condition and the ages and condition of the children employed therein and all other matters pertaining to their operation, and make reports to the Governor of each inspection. He shall also, when directed by the Governor, institute prosecutions against the owners or operators of such mills and factories for any violation of the law; reports of inspections to be published in the counties where the institution is located, within 30 days.

Wisconsin ('07 ch.236) extended the powers of the State Board of Control to examine plans for asylums, poorhouses and jails, so as to include houses of correction and workhouses.

**County and township.** Arizona ('07 ch.40) increased the compensation which the board of supervisors may give to a jailer from \$60 to \$100 per month.

Arkansas ('07 ch.136) changed the law in relation to maintenance of jail prisoners by providing that the sheriff shall receive a fixed sum of 75 cents per day for the support of indigent prisoners, such prisoners to declare on oath that they are unable to buy or procure the necessary food (formerly the amount was left to be determined by the county court).

Minnesota ('07 ch.68) authorized each county board of control to fix the salary of its secretary at not exceeding \$2000 per annum.

Nevada ('07 ch.136) authorized the establishment of branch county jails in the several counties of the State and provided that misdemeanants may be imprisoned in such branch jails. The sheriff may appoint a deputy for such branch jail; prisoners confined therein may be worked on the public streets or roads of such town or district.

South Dakota ('07 ch.204) directed the sheriff or jailer to charge and collect, in addition to charges now allowed by law, additional necessary expenses for maintaining United States prisoners or prisoners from any state, territory or county other than the one in which the jail is located.

Tennessee ('07 ch.445) authorized the counties to establish and maintain portable, movable or stationary workhouses, to which prisoners shall be sentenced wherever located in the county, such portable workhouse to be for the convenience of working prisoners upon the public highways.

Wisconsin ('07 ch.341) amended the law relating to commitments to the workhouse by providing that a male person over 16 years of age, convicted within any county of any offense for which a justice of the peace under the general law has jurisdiction to hear, try and determine, shall be committed to the workhouse (formerly only those convicted of a charge of vagrancy, vagabondage, petit larceny, drunkenness or disorderly conduct). This law was further amended by omitting tobacco from the things which the keeper is forbidden to furnish to the prisoners.

**Municipal.** South Dakota ('07 ch.203) adds to the definition of the term "prison," "Every place designated by the resolution or ordinance of any municipal corporation."



Wisconsin ('07 ch.339) provided that hereafter no lockup or temporary place of confinement for insane persons or persons arrested for criminal offense shall be erected in any village or city of the third or fourth class within 300 feet of any school building or building used regularly for school purposes.

**Discipline. Instruction. Care of sick.** Connecticut ('07 ch.33) provided that any person committed to jail with a malignant, contagious or infectious disease (formerly malignant only) may be released by the state's attorney on the approval of a judge of the superior court or county commissioners.

Indiana ('07 ch.150) made it unlawful to barter with inmates of any penal institution without the authority of the superintendent, under penalty of a fine of not less than \$25 or over \$100 and imprisonment of not less than 30 or more than 90 days.

New Jersey ('07 ch.65) passed an act requiring the board of inspectors to establish a school in the State Prison for the instruction of the inmates, the head teacher not to be an inmate; assistant teachers may be inmates; school to be under the supervision of a State Prison school board, consisting of the principal keeper, two members of the board of inspectors, and the moral instructors in said prison.

North Carolina ('07 ch.567) passed an act providing for the separation of prisoners affected with tuberculosis from other prisoners.

Vermont ('06 ch.199) enacted that a person sentenced to imprisonment in the house of correction shall be kept at hard labor except that the superintendent may in his discretion require said persons to take such physical exercise, other than hard labor, as he may prescribe, but not more than one hour per day for five days in each week.

**Convict labor.** The Arkansas Legislature ('07 p.1260) adopted a concurrent resolution, authorizing the joint committee on penitentiary to visit and investigate the convict camps and farms, with power to summon witnesses, administer oaths, take depositions and examine fully the charges of mismanagement and inhuman treatment of prisoners in such camps and farms.

Colorado ('07 ch.226) enacted a law authorizing the state penitentiary, reformatory, and industrial school for boys to make wearing apparel for the inmates of the Home for Dependent Children, the Insane Asylum and the Soldiers Home.

The same state ('07 ch.201) adopted the New York state plan



for the employment of prisoners in penal institutions, requiring that prisoners shall be employed for the state or in productive industries for the benefit of the state and for the use of public institutions owned and controlled by the state.

Iowa ('07 ch.194) authorized the employment of convict labor in caring for the houses and premises of the wardens of the penitentiaries and for such domestic purposes as may be necessary, not more than two convicts to be thus used at any one time.

Maine ('07 ch.107) provided that if the earnings of prisoners committed to the house of correction exceed the expense of commitment and maintenance, the excess may be used for the benefit of dependent families or kindred of the prisoners.

Michigan ('07 ch.291) provided that where manufacturing is done on public account in the State Prisons, the prisoners may be paid for their time.

Missouri ('07 p.372) allows convicts 5 per cent of their earnings, \$15 to be reserved for the prisoner himself on release; the residue may be used for the support of his family or otherwise expended on approval of the warden.

Vermont ('06 ch.198) authorized the inmates of the State Prison and House of Correction, not exceeding 10 from each institution at any one time, to be employed in the service of such institution outside of the walls of such prison and house of correction.

The same state ('06 ch.200) provided that certain male prisoners in county jails may be required to work at manual labor within or without the walls of the jail not more than 10 hours each day except Sundays and holidays. The prison board, composed of the assistant judges of the county court, sheriff and county supervisor of highways, may require and compel said prisoners to work on the public highways in their respective counties.

**Contract and lease system.** Alabama ('07 p.244) amended the law relating to the leasing of convicts by requiring contractors to make monthly payments to the president of the board (formerly to the auditor) and required such president to make quarterly settlements with the auditor.

Florida ('07 ch.110) amended the law relating to the leasing of county convicts by providing that before hiring, leasing or letting out such prisoners the board of county commissioners

shall advertise 30 days in one or more county papers their intention to lease said prisoners.

**County and municipal convicts.** Colorado ('07 ch.202) provided that when there are three or more prisoners in a jail at any one time the sheriff or other officer in charge, shall, when possible, compel them to work at hard labor eight hours each working day. When such prisoner is confined after conviction for nonsupport of wife or children the county shall contribute to the support of such wife or children not less than 50 cents nor more than \$1 per day for each day such prisoner shall work, provided such wife or children would otherwise be a public charge.

Maine ('07 ch.161) authorized the employment of prisoners committed for a crime, for the benefit of the county or of dependent families of such prisoners, and the payment of the proceeds of such labor (less cost of maintenance) to the families of the prisoners.

Nebraska ('07 ch.53) provided that the sheriff should be allowed 39 cents per day for boarding prisoners at the county jail in counties of 100,000 inhabitants, in other counties 50 cents per day. After January 1, 1908, the furnishing of meals to prisoners in the county jail to be let to the lowest bidder.

North Dakota ('07 ch.87) requires able-bodied convicts convicted of a misdemeanor when sentenced to jail to be sentenced to hard labor, and makes it the duty of the sheriff to enforce such sentence.

The same state ('07 ch.274) authorized the board of county commissioners of any county to vote to provide a workhouse in which persons committed to the county jail shall be compelled to labor. Such question shall be submitted to a vote of the people at the next election, and if approved, then such workhouse shall be established by the commissioners.

Wisconsin ('07 ch.117) authorized the village authorities to compel any person committed to the watchhouse to labor on public work, such prisoner to be allowed \$2 for each day's labor, to be applied on fine and costs until same are paid.

**Convict labor on highways.** Colorado ('07 ch.206) established a public highway through the state, such highway to be constructed outside of the incorporated cities and towns by convict labor under the board of commissioners of the penitentiary and the warden. \$10,000 appropriated for extra guards, tools etc.



Illinois ('07 p.442) provided that road material prepared by convict labor may be used for extension of hard roads within the corporate limits of cities and villages.

Nevada ('07 ch.136) authorized the board of county commissioners of any county to establish a branch county jail in any town in such county, misdemeanants to be imprisoned in such branch jail. The sheriff may appoint a deputy to have charge of such branch jail; prisoners in such jail to work on the public streets and public roads of such towns and district [*see above*, title "County and township"].

Pennsylvania ('07 ch.191) authorized and directed able-bodied male prisoners confined under sentence in county jails or workhouses to perform eight hours of manual labor each day except Sundays and holidays; such labor to be under the direction of the prison board, to consist of the sheriff and county commissioners for jail prisoners, and the superintendent and managers of the several workhouses for the inmates of such institutions.

Tennessee ('07 ch.219) makes it the duty of the board of workhouse commissioners to furnish the turnpike superintendent of counties of 15,000 or more inhabitants with not less than 20 nor more than 30 convicts with tools, guards etc. to ditch and repair turnpike roads, the guards to be paid out of the turnpike fund of said counties.

Washington ('07 ch.39) authorized the board of county commissioners of any county to order the sheriff to cause all able-bodied male prisoners under sentence in the county jail to labor on the public roads and highways of such counties.

The same state ('07 ch.93) enacted that all state convicts not otherwise employed should be employed in the building of state roads under authority of the Board of Control in charge of the superintendent of the penitentiary, work to be designated by the highway board and expense paid by the state.

**Disposition of convict-made goods.** California ('07 ch.473) made it the duty of the board of prison directors annually to fix the price at which jute goods shall be sold by the state, such price not to be more than one cent per bag in excess of the net cost exclusive of prison labor, such goods to be sold only to consumers until May 15th of each year; after that date to others up to October 15th, on express condition that purchasers shall not sell at an advance price. The penalty for violation not less than



\$250 nor more than \$1000, or imprisonment of not less than 90 days or more than one year.

Missouri ('07 p.370) amended the law relating to the sale of binding twine manufactured in the penitentiary, allowing a discount to purchasers in quantities of 1000 pounds or multiples thereof.

North Dakota ('07 ch.40) amended its law relating to the sale of the product of the twine plant of the penitentiary, authorizing the price of such product to be based on its cost and the demand for it; prices for carload lots may be fixed at not more than  $\frac{1}{2}$  cent per pound under prices for smaller lots. After June 1st of any year a part of the product may be sold outside of the state.

Washington ('07 ch.135) passed an act providing for the sale and distribution of grain sacks manufactured at the State Penitentiary, such sacks to be sold directly to the farmers of the state, prices to be fixed by the board of control each year.

The same state ('07 ch.180) authorized the board of control to use brick manufactured in the penitentiary for the enlargement and construction of any buildings used in connection with such institution.

Minnesota ('07 ch.49) authorized the board of control to establish, equip and operate in the State Prison a factory to manufacture rakes, mowers, harvesters and binders, and to use for such purpose not exceeding \$200,000 of the revolving twine fund of the state.

**Special industries.** Indiana ('07 ch.86) authorized the board of control of the State Prison to equip and operate a binder twine and cordage plant in the prison with prison labor, the output to be sold in such manner and at such prices as the board of control, warden and Governor shall determine. \$200,000 appropriated to carry this law into effect.

Michigan ('07 ch.211) provided for the installation, equipment and operation of a twine and cordage plant at the State Prison. \$50,000 appropriated for buildings; \$125,000 for a revolving fund to continue the industry. Prices of product to be fixed by the board of control and warden. Citizens of the state have preference in purchasing.

In the same state ('07 p.505) the Legislature adopted a joint resolution to amend the Constitution by striking out section 3 of article 18, miscellaneous provisions, which provides that "No mechanical trade shall be taught to convicts of the State Prison

of this state except the manufacture of those articles of which the chief supply for home consumption is imported from other states or countries." Adopted by the people April 1907.

Minnesota ('07 ch.71) modified the act relating to the employment of convicts by providing that the number of convicts engaged in a single industry at the same time in any institution coming under the provision of this act (formerly all convicts) shall not exceed 10 per cent of the total number of persons engaged in such industry in the state, and also provided that this limitation shall not apply to the number of prisoners employed in the manufacture of binding twine in the State Prison nor in the manufacture of brushes in the State Reformatory, nor to the number hereafter employed in the manufacture of binders, mowers and rakes at the State Prison, nor to the number hereafter employed in any industry not now carried on in this state.

The same state ('07 ch.74) amended its laws relative to the sale of binding twine manufactured in the State Prison by providing that sales may be made under rules and regulations of the board of control.

Oregon ('07 ch.92) provided that none of the convicts serving sentences in the penitentiary shall be leased, hired or contracted for the manufacture of overalls, shirts, underwear, boots and shoes, or other clothing of any kind, nor shall such convicts be employed in the manufacture of any such articles for sale or for any purpose except for the use of the penitentiary, its employees and inmates, and the employees and inmates of state institutions.

South Dakota ('07 ch.67) authorized the levying of a tax of  $1\frac{1}{4}$  mills for the purpose of establishing and operating a hard fiber twine and cordage plant at the State Penitentiary, to be known as the revolving fund for twine plant, the warden to construct such plant with prison labor as far as practicable.

Tennessee ('07 ch.506) authorized the board of prison managers, with the approval of the Governor, to lease or hire not exceeding 500 convicts for the purpose of building a standard gage railroad to and upon the property of the state known as "Herbert Domain," such hiring not to exceed two years and convicts to remain under the control of the board of prison commissioners in charge of state officers.

The Wisconsin Legislature ('07 p.1290) adopted a joint resolution, authorizing and directing the State Board of Control to investigate the quarries of the state and the advisability of employing convicts in quarrying and crushing rock.



**Criminal insane.** Arkansas ('07 ch.390) made provision for the transfer of insane convicts from the penitentiary to the State Hospital for nervous diseases, and for their return to the penitentiary after restoration.

California ('07 ch.419) provided that where a claim against a county for the care of insane prisoners is rejected and finally recovered, interest shall be allowed from the date of rejection only.

Maine ('07 ch.155) provided for the transfer of insane prisoners from the State Prison to the Maine Insane Hospital at Augusta.

Vermont ('06 ch. 197) amended its law relating to the removal of insane prisoners to the hospital for the insane, by providing that it can only be done on an order from the Governor, based on expert examination directed by him; on recovery the prisoners to be returned on the order of the Governor.

Washington ('07 ch.30) passed an act defining persons who shall be deemed criminally insane and the procedure for their trial, commitment and custody.

**System of sentencing and reform.** Arkansas ('07 ch.440) made provision for the parole of prisoners from the State Penitentiary. The penitentiary board to convene every three months, and may parole prisoners serving indefinite sentence after expiration of minimum term and others who have served one third of a definite sentence. The act defines the procedure for parole; the board authorized to establish rules and regulations. Employment must be secured before parole; parole prisoners to report to the sheriff of the county monthly; the sheriff to investigate and report to the superintendent of the penitentiary; the sheriff to keep secret the fact that the prisoner is a paroled prisoner. Provisions of the act are made to apply to the reform school.

Iowa ('07 ch.192) changed the name of the penitentiary at Anamosa to the Reformatory. Persons convicted of felony other than murder, treason, sodomy or incest between the ages of 16 and 30 years, never before convicted of a felony, to be confined in the reformatory. Discretionary to send prisoners of these ages convicted of rape, robbery or burglary in the night time either to the reformatory or to the penitentiary. Inmates of the reformatory to be employed only on the state account and employment to be educational. After July 4, 1907, commitments to the penitentiary shall be on indeterminate sentence. The Gov-



ernor to appoint a nonpartizan State Board of Parole of three, to receive compensation of \$10 per day for actual time. The board shall appoint a secretary at a salary of \$2000. The board authorized to establish rules and regulations upon which prisoners may be paroled. After 12 months of good behavior on parole the board may recommend his discharge to the Governor. It is the duty of the board under the direction of the Governor to investigate applications for pardons.

North Dakota ('07 ch.180) authorized the commitment of persons convicted of felony, except treason, murder in the first degree, rape and kidnapping, on indeterminate sentence in the discretion of the court. Confinement under such sentence should not be less than one year nor exceed the maximum term provided by law for the crime committed. Persons under 20 so convicted may in the discretion of the district court be sentenced to the State Reform School during minority. The board of pardons may extend the benefits of this act to persons previously convicted and sentenced.

**Commutation of sentence.** Minnesota ('07 ch.206) provided that the diminution of sentence of a convict for good behavior in a state prison shall also apply to such prisoner while on parole.

Oregon ('07 ch.81) amended the act relating to allowances for good behavior in the penitentiary so as to provide for the following deductions: two months in each of the first two years; four months in each of the next two years; five months in each of the remaining years; every convict entitled to these deductions, unless he has been adjudged guilty of misconduct after trial by the superintendent and warden.

Wyoming ('07 ch.18) amended its law granting allowances for good conduct of convicts by fixing such allowance as follows: for the first year, one month; second year, two months; third year, three months; fourth year, four months; fifth year, five months; sixth and each remaining year, six months. He may by misconduct forfeit not only the good time which he has earned but also the good time which he may earn in the future.

**Habitual criminals.** Indiana ('07 ch.82) enacted that every person on a third conviction in this state or elsewhere for a felony shall be deemed an habitual criminal and sentenced to state prison for life. Previous convictions to be alleged in the indictment and found by the jury.

The same state ('07 ch.215) passed an act providing that institutions having the care of confirmed criminals, idiots, rapists

and imbeciles shall appoint on the institution staff two skilled surgeons to examine mental and physical condition of inmates; where board of managers and surgeons deem case unimprovable, surgeons may perform operation for prevention of procreation. New York ('07 ch.645) provided that persons on fourth conviction of felony shall be sentenced to state prison for life, and after serving the maximum penalty prescribed for the particular offense on which conviction is had, less computation for good behavior, he may be paroled but not discharged.

**Identification records.** New Hampshire ('07 ch.24) provided that any officer or keeper of a prison or place of detention may take Bertillon measurements, photographs and finger prints of a prisoner.

New York ('07 ch.626) added a new section to the Penal Code, providing that upon the acquittal or other favorable termination of the criminal action against a person, photographs and photographic plates and all duplicates and copies shall be returned to such person. It is made a misdemeanor to refuse to make such return.

**Indeterminate sentence.** Arizona ('07 ch.37) provided for indeterminate sentence, in the discretion of the court, of persons convicted of felony, except murder, who had not previously been convicted of a felony or served a term therefor, such sentence not to exceed the maximum term provided for the crime charged and shall not be less than the minimum term. The act provides for the parole of persons serving indeterminate sentence.

Massachusetts ('07 ch.251) amended the act relative to commitments of women to the reformatory prison by providing that females convicted of a misdemeanor may be sentenced to the State Reformatory in certain cases.

The same state ('07 ch. 252) made further amendments to this law relating to sentences to the State Reformatory.

New York ('07 ch.737) extended its indeterminate sentence law so as to include all persons convicted of felony for the first time, except murder in the first or second degree, and provided that the maximum limit must expire between the months of April and October inclusive (formerly it was optional with the court to commit on indeterminate sentence when the maximum penalty exclusive of fines exceeded five years' imprisonment).

Washington ('07 ch.155) provided for indeterminate sentence for persons convicted of a felony other than treason or murder, the court not to fix the maximum sentence except where such



sentence may be for life or any number of years. When no minimum is provided by law the court to fix such minimum at not less than six months nor more than five years. Record of conduct to be kept and provision made for parole of prisoners; the board of parole to recommend to the Governor the final discharge. A prisoner on parole may be returned for misconduct.

**Parole.** Colorado ('07 ch.83) provided for a state parole officer to look after prisoners paroled from the penitentiary and reformatory; \$4000 appropriated for salary and expenses.

Idaho ('07 p.537) made it the duty of the sheriff of each county to act as the parole officer for his county, the prisoner to make monthly report to the sheriff, the sheriff to investigate its correctness and make report of such prisoner to the warden of the penitentiary.

The same state ('07 p.544) modified its parole law by providing that the convict, when on parole, shall be deemed in the custody of the board of pardons, only for the purpose of seeing that the said convict performs the parole agreement. If taken back for misconduct, his time of parole shall not be considered a part of his sentence.

Indiana ('07 ch.236) authorized the courts upon conviction of a felony or misdemeanor, except murder, arson, burglary, rape, treason and kidnapping, to suspend sentence and grant parole; persons convicted of felony, on parole, to be under the control of the institution to which such person would have been committed except for parole.

Kansas ('07 ch.178) gave to district and common pleas courts power to parole convicted prisoners. Persons under the age of 21 convicted of felony, except murder, manslaughter, rape, arson or robbery, may be paroled before commitment; such parole may be terminated at any time by the court granting it. Certain parole prisoners required to give bond to appear at each term of court. Any jail convict sentenced by an inferior court may be paroled or discharged by the court having jurisdiction of appeals from the inferior court. Parole must not be less than 6 months or longer than 2 years for misdemeanants, and not less than 2 years or longer than 10 years for felons. Parole prisoners must pay costs unless insolvent. The court may appoint some competent person or society to act as patron for paroled prisoner.

Michigan ('07 ch.250) provided that the county agent of the State Board of Corrections and Charities in each county shall,



when requested by the proper authorities, act as the first friend and adviser for nonresident paroled prisoners; such agent shall receive \$1 each month for each prisoner under his care.

Missouri ('07 p.384) extended the provisions of parole to persons sentenced to the State Industrial Home for Girls or to the Missouri Training School for Boys.

The same state ('07 p.385) amended its law relating to parole of prisoners by limiting it to persons of previous good character convicted for the first time of any felony, except murder, rape, arson or robbery.

Montana ('07 ch.95) authorized the State Board of Prison Commissioners to parole any inmate of the State Prison except convicts previously convicted of a felony other than the one for which he is serving sentence. Any convict may be paroled after having served one half of his term, not reckoning his good time, except any such convict after serving  $12\frac{1}{2}$  years may be paroled.

New Jersey ('07 ch.261) transferred the power to revoke parole from the board of pardons to the Governor and authorized the arrest of the paroled prisoner by the parole agent as well as others.

New York ('07 ch.467) authorized the appointment of a new board of parole for state prisons, to consist of the Superintendent of Prisons and two members to be appointed by the Governor (formerly the members of the State Commission of Prisons constituted the board of parole). Compensation \$10 per day and expenses for each day actually spent in official duty; term five years. It is also the duty of this board to make examination and report to the Governor its recommendations on applications for pardon referred to it by the Governor.

South Dakota ('07 ch.199) authorized the State Board of Charities and Corrections to parole inmates of the reform school after diligent inquiry. Employment must have been obtained for an adult inmate or suitable home for a child.

The same state ('07 ch.198) amended its law relating to paroled convicts, making its provisions applicable to persons received into the penitentiary prior to its passage.

Wisconsin ('07 ch.110) authorized the board of parole, with the approval of the Governor, to parole any prisoner now or hereafter in the State Prison, except those previously convicted of felony and those serving a life sentence, convicts not eligible until they have served one half their term without allowance for

good time. Employment must be secured before parole. The district attorney must be notified 10 days before the parole.

**Pardons.** Michigan ('07 ch.264) amended its law relating to the pardoning board by providing that members of said board shall not receive compensation for more than 200 days in each year (formerly six months).

Nebraska ('07 ch.176) passed an act regulating the procedure on applications for pardon or reprieve. When application is of a person under sentence of death, notice of the application or hearing need not be given, but the Governor may proceed forthwith to determine same. Communications to the Governor in relation to such application except by his request unlawful. The Governor may require the prisoner to be produced before him at the hearing.

**Probation.** Connecticut ('07 ch.1) amended its law relating to appointment of probation officers by authorizing the judge, who held the court, after the adjournment of the term as well as during court, to suspend sentence and put the accused in charge of a probation officer or of such officer pro tempore.

The same state ('07 ch.172) provided that probation officers appointed for city, borough, and town courts shall be paid in the same manner as the other officers of said courts.

Maine ('07 ch.336) passed a special act relating to a probation officer for the city of Westbrook, such officer to be appointed by the municipal court, term two years, compensation to be fixed by the court, not exceeding \$300 a year. He shall assist the courts by furnishing information relating to prisoners, and take charge of persons committed to his care. The court may release the offender on recommendation of the probation officer.

Massachusetts ('07 ch.335) provided that a person placed on probation, on condition of restitution to the person injured, may be allowed to pay in instalments through the probation officer.

New Jersey ('07 ch.209) amended its law relating to probation by providing that the conditions may include the payment of a fine or the costs of prosecution, or both, to the probation officer. In case of resentence, the total of the sentences imposed, shall not exceed the maximum allowed by law for the offense.

New York ('07 ch.430) established a State Probation Commission, to consist of seven members, four to be appointed by the Governor for a term of four years, one member from the State Board of Charities and one from the State Commission of

Prisons, and the Commissioner of Education; the commission to have supervision of probation officers in the state and make report to the Legislature; shall employ a secretary and other employees.

Vermont ('06 ch.74) authorized any court or the judges of the Supreme Court to discharge a person from the custody of the probation officer or change the conditions of his probation.

Wisconsin ('07 ch.426) provided that a minor 16 years of age or over, convicted of a misdemeanor or first felony for which the maximum penalty does not exceed seven years, may in the discretion of the court be placed in the care of a probation officer under a suspended sentence not exceeding six months. At the expiration of such period such minor may be sentenced, discharged or continued under probation.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39d

**PUBLIC CHARITIES**

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**State boards and officers (supervision).** The empirical character of American charitable legislation is most interestingly illustrated in the legislation of 1907 and 1908, affecting supervision of public charitable institutions. For some years past state governments have shown a tendency to strengthen their hold upon the public charitable institutions of the state. This tendency took one or both of two forms: (1) The creation of an unpaid supervisory body with full powers of inspection and report to the Governor or Legislature, but with few if any administrative functions in connection with the institutions under the board's supervision. This form of regulation was adopted by most of the Northern States east of the Mississippi river. (2) A somewhat later development, largely in the Mississippi valley states, which became after 1895 a very pronounced tendency to centralize the administration of the state charitable institutions in the hands of a board of control, usually made up of a small number of salaried officers. This board in most instances had the entire management as well as the supervision of the state's charitable institutions. The relative merits of these two forms of state regulation were discussed at length for a number of years, sometimes with considerable heat. Since 1905, however, there is a tendency in those states having a central board of management and control for charitable institutions to provide in addition some supervisory body. Governor Johnson of Minnesota recognized the need for such supervision in his message to the Legislature of 1905, and at the following session an act creating such a supervisory body was passed. On the other hand some of the Eastern States having supervisory boards, notably New York, have shown a tendency to provide more centralized fiscal control over the state charitable institutions. It is thus becoming

plain that neither the purely supervisory board nor the administrative board is likely to be the final form of legislation providing for state control of public charities, but that the principles behind both of these forms of regulation are sound and will appear more frequently hereafter in effective legislation of this character.

During the years 1907 and 1908 a new form of state supervision of public charities took a strong hold upon public attention. The state of New Jersey was the first to vest its supervisory functions in an officer known as the State Commissioner of Public Charities, who exercised practically all the functions ordinarily lodged in a state board of charities. Alabama by creating the office of Inspector of Jails and Almshouses follows to some degree the New Jersey plan and Oklahoma also makes provision for a similar officer to be called the Commissioner of Charities and Corrections, with power to inspect state, local and private charitable and penal institutions. Virginia follows the tendency of other seaboard states in establishing a supervisory board of five members which shall have visitorial and advisory but no administrative duties in connection with state institutions. Its powers extend over correctional and reformatory institutions as well as over those of a purely charitable nature. The legislation in the three states just mentioned is a continuance of a movement of more than passing interest, which may perhaps best be described as an awakening of the Southern States to the importance of their charitable institutions and to the need in them for suitable state leadership and regulation.

The Legislature of Massachusetts authorizes the State Board of Charities of that state to prepare and publish a manual of laws concerning the charities of the commonwealth at an expense not exceeding \$500. This action on the part of the Massachusetts board calls attention to a most desirable and useful publication by the New York State Board of Charities, a collection and compilation of all the laws of that state relating to charities. In most states it is still impossible for the lawyer, the social worker, the legislator or the student to find a complete collection of such laws for reference.

In Maine a special committee of five has been appointed by the Governor to consider the advisability of creating a state board of charities. This action was authorized by chapter 210 of the laws of 1907.

An amendment to the New York State Charities Law creating the office of deputy fiscal supervisor of state charities calls atten-



tion to the unarticulated and confused condition of that state's supervisory machinery. This matter received considerable attention at a recent state conference of charities and corrections, at which the president of the conference in his annual address called attention to a number of interesting features in the state's supervisory system. As his paper showed, there are no less than three separate boards established by the Constitution to exercise supervisory functions over the charitable and correctional institutions of the state and no less than a dozen statutory boards, departments or commissions, permanent and special, whose supervisory functions are state wide. The powers of these various supervisory bodies and commissions are in all cases general and oftentimes overlap while at the same time some of the more important charities of the state are left without adequate supervision. The conditions set forth in the president's address, which have been familiar for some years to observant persons in touch with the state's charities, seem to call for a reorganization of the state's supervisory machinery so as to insure adequate supervision for all the charitable and correctional agencies of the state and at the same time to eliminate duplication and friction.

**State charitable institutions (administration).** As noted above, the necessity for better coördination in the management of the charitable institutions of the states has received considerable attention of late. For some years there has been a tendency, particularly in the Middle Western States, to centralize the management of as many of the charitable institutions of the state as possible in the hands of a single board. This plan has obvious financial advantages and has been adopted in whole or part by a number of other states, chiefly in the upper Mississippi valley. While this method of management has equally obvious weaknesses and defects, it has attracted attention to the necessity for better coördination in a number of states where such coördination was lacking. In 1907 bills designed to accomplish this end were considered by several Legislatures. The Legislature of West Virginia provided for a legislative committee of five to investigate the question and to formulate plans for the grouping of institutions of the same kind under one board of managers and also to report on the feasibility of a uniform system of accounting, auditing, and purchasing supplies. Similar committees have been organized in Colorado and Arizona, the



duties of the latter committee being somewhat narrower in scope than those of the West Virginia committee just mentioned. The state of Michigan, by an act of 1907, fixes the final responsibility for the apportionment of salaries in the charitable institutions upon the Governor, the Auditor General, and the State Treasurer.

A good example of legislation looking to the standardizing of state charitable administration is the recent act of the New York Legislature fixing the size of each and every board of managers of a state charitable institution at seven, making the term of service five years and providing for appointment or removal by the Governor. Hitherto the size, duties, term of service and methods of appointment of boards of managers were established in a separate statute for each state institution, thus creating much divergence on these several points in different institutions. The new act unifies and standardizes these divergent parts of a number of separate enactments in a single paragraph of the State Charities Law.

With a view to emphasizing still further the responsibilities of managers of the charitable institutions of the state and to enforce strict attention to their duties the Legislature of New York has passed also an act requiring a monthly inspection of the institution by a majority of the board, with a written report of such inspection to the Governor, State Board of Charities, and the Fiscal Supervisor. Managers or trustees who do not attend the meetings of their board or fail to make such visits for three successive months shall be deemed to have vacated their membership in the board of managers and the Governor shall appoint their successors.

Pennsylvania makes an interesting contribution to a rather difficult question. In a number of states the difficulty of securing suitable markets for the surplus products of the state institutions has long been a troublesome question. In some states the goods manufactured in state prisons are sold to the state charitable institutions. Some of these charitable institutions, however, such as homes for the adult blind and colonies for epileptics have produced articles of common use for which there is no market, owing to the legislative restrictions drawn around the sale of institution products, restrictions doubtless made in the interests of manufacturers or of labor unions who do not wish to see the products of prison or pauper labor compete in the open markets with the products of commercial houses. In some states, however, provision

has been made for the sale of goods made in charitable institutions, under restrictions which safeguard the manufacturers of the same products. In Pennsylvania the recent act authorizes the sale of produce, manufactured articles, etc. by any institution for the care and treatment of the insane, feeble-minded, or epileptic to any other state hospital or institution within the state.

The state of New York authorizes the selection of a site for the establishment, in the eastern part of the state, of a colony for the care of epileptic and feeble-minded persons needing custodial care. Such site has since been selected and is called the Letchworth Village, in honor of William Pryor Letchworth, the founder of the Craig Colony for Epileptics, and a pioneer in the work of developing the charities of the state.

**Local public relief (local boards, officers and institutions).** The Michigan Legislature has passed a comprehensive act regulating the granting of relief to poor persons in the various counties of the state and providing for the transportation and support of such poor persons. The statute provides that any poor person incompetent to earn a livelihood or any person who becomes incompetent within one year shall be entitled to admission to any state or county asylum or almshouse, but that such person shall be supported by the county or state of which he was last a resident, pending removal to that county. Notice of the presence of such dependent person in any county may be served upon the superintendent of the poor of the county where the poor person last resided. The latter county may then serve a denial of liability in case the superintendent of the poor in that county considers that his county is not legally responsible for the support of the dependent and the circuit court shall then determine the matter. This denial of liability, however, must be served within 10 days, or else the county must pay the expense of the care and transportation of the dependent. Charges of one county against another for the care and transportation of such person must be embodied in a sworn itemized statement and submitted within 30 days. Dependents who have a settlement in another state may also be returned to their last residence at the expense of the state from which they are returned. This act is in accordance with recent discussions of the subject of poor relief in a number of the national and state conferences and promises to be a marked improvement over the too common plan of "passing on" a poor person from one county to another, irrespective of his legal settlement.



Connecticut has taken action in somewhat the same manner, defining state paupers as all persons who have no settlement in any town of the state, or indigent persons discharged from the county jail or from the state or county workhouse (who are not inhabitants of any town of the state at the time of their commitment and who have no relatives in the state at the time of their commitment liable and able to support them), or children born to such persons in jail or workhouse. Each town is authorized to furnish support for these dependents and to secure reimbursement from the State Treasury. The act also provides for the return to his last settlement of any dependent who becomes chargeable on the town during the first year of his residence in that town.

North Dakota's new statute of the year 1907 extends the period necessary to acquiring a residence from 90 days to one year. This act, as well as one passed by the Vermont Legislature in the same year, specifies that the settlement of a married woman follows that of her husband.

**Care of veterans, their widows and children.** The volume of legislation under this head exceeds that of any other topic in the field of charity, which received the attention of state Legislatures during the years 1907-8, most of the enactments relating to pensions or the burial of veterans.

The Legislatures of Iowa, Kansas, Utah and Oregon memorialized Congress, asking that federal legislation be enacted making eligible to pensions on the same terms as veterans of the Civil War, the members of various local troops which were organized and served either in the Border or Indian wars. The Iowa Legislature asked this legislation for the Iowa Northern Border Brigade, which protected the northern counties of the state against Indian invasion at a time when the bulk of the state's fighting population was enlisted in the Civil War. Kansas appealed in behalf of the Forsyth Scouts and the Kansas state militia of 1861-65. Utah's petition was in the interest of the veterans of the various Indian wars between the years 1854 and 1867, and Oregon made a similar appeal for the veterans of the Indian uprisings of 1878. Most of these hostilities were of small importance and were for the most part purely of local or state extent and not national wars in any sense of the word. The propriety, therefore, of the national government's granting pensions to participants in them is extremely doubtful. If pensions are to be



granted for service in encounters of this kind, they would seem more properly to come from the State rather than the National Treasury.

The extension of the pension idea and practice is seen in two laws enacted by the Legislatures of Maine and New Jersey respectively. Provision is made by the Maine Legislature for pay and hospital or infirmary care for a period of 90 days, of members of the state militia who may become incapacitated for their ordinary vocations because of illness or injury contracted or received while in the service of the state. The New Jersey act is special legislation of a rather extreme type and applies only to widows of soldiers of the Civil War who have been employed in some branch of the public service for a period of 25 consecutive years. Such state employees are entitled to retire from the service and to receive a pension equal to one half of their salary at the time of retirement.

Legislation providing for increased appropriations for state pensions appears in several of the Southern States. In Arkansas the tax for the payment of pensions to Confederate veterans is increased from one to one and one half mills. South Carolina increases the minimum annual appropriation for pensions to \$250,000. In Tennessee the appropriation for pensions is increased from \$25,000 to \$60,000 annually. In the last named state the terms of the act might be construed to apply to Union as well as Confederate veterans. Arkansas, like South Carolina, further extends the state's bounty to the provision of artificial limbs for Confederate veterans and the latter state also makes an appropriation of \$3500 for holding a reunion of Confederate veterans.

In four Northern States an act of the Legislature provides for the burial of veterans, either by making arrangement for the purchase of lots in an incorporated cemetery, or by a per capita payment, usually \$50, for the burial of veterans in such cemeteries. In several states the per capita payment for this purpose is increased from a lower figure to \$50 and in many cases a fee of \$2 is provided for the association or agent which takes charge of such burial. In a number of states other benefits such as admission to the Soldiers' Home or eligibility to pensions are extended to soldiers and sailors who served in the Spanish War.

The Legislature of Minnesota offers free tuition in the State University for any veteran of the Spanish American War who

resided in the state at the time of his enlistment. The states of Illinois and Washington authorize the relief of indigent veterans of the Spanish American War by counties. By an act of the Illinois Legislature counties are required to pay the expense of burial of the deceased indigent veterans of the Civil or Spanish American War. The Colorado Legislature provides for the establishment and maintenance of cemeteries for veterans of the Civil and Spanish American Wars.

**Hospitals.** The New York Legislature has passed an act limiting the power of superintendents of hospitals in the city of New York in the matter of transfer of patients while in a dangerously sick or injured condition. This act is designed to check the well known abuse of transferring dying patients from one hospital to another with a view to avoiding the extra duties involved in the death of a patient and in order to keep down the hospital death rate. The new law requires the execution of a certificate by the attending physician or senior member of the house staff, setting forth the facts which make such removal necessary. Whether this enactment will be successful in preventing the abuse mentioned above remains to be seen, but as the law merely provides a penalty for not executing the certificate, it seems doubtful whether it will wholly remove the abuse.

The extent to which the state of Pennsylvania enters into the field ordinarily occupied by private charity is illustrated in the provision by the Legislature of 1907 for a state hospital for injured persons in the Treverton, Shamokin and Mt Carmel coal fields. The act carries an appropriation of \$15,000, which will possibly be enough to provide a site for the hospital. The act also provides that the expense of the building, exclusive of lands, shall not exceed \$60,000 and that the hospital shall be exclusively devoted to the treatment of persons injured about the mines, workshops, railroads and other industries in the districts above mentioned. No provision is made for the support of the hospital after completion except that the trustees are authorized to receive contributions for that purpose. It would seem to an outsider that the industrial corporations operating in these districts should bear not only the expense of maintenance but also the expense of constructing this hospital, in view of the dangerous character of the employment offered their men and the large profits of the business. From the previous experience of the state, it is doubtless safe to predict that the sup-



port of the hospital will come largely from the State Treasury, under the system of appropriations to charitable institutions which has been developed to such large proportions. Whether this prove to be the case or not, the cost of building the hospital and such part of its support as is borne by the state will amount to a direct contribution from the State Treasury to the railroad, mining and other corporations operating in this region.

The Legislature of the state of Indiana, in chapter 155 of the laws of 1907, authorizes payment to hospitals of a certain size (whose revenues are all expended for maintenance) of such appropriations for support as the county commissioners shall deem advisable. To one familiar with the history of appropriations to private institutions in the different states, it would appear that Indiana is entering upon a plausible but rather dangerous experiment. This system of appropriations to private hospitals and other charities was begun in the states of New York and Pennsylvania in much the same way and by the year 1890 had grown to such proportions as to require considerable attention from state and city authorities. As a result, the system in New York is now rather carefully regulated under a plan whereby appropriations are made upon a per capita and per diem basis to hospitals and to only such hospitals as receive their patients in accordance with the rules of the State Board of Charities, while in Pennsylvania the abuses of the system have brought about an inquiry into the matter by a joint Legislative Commission.

**Care of defectives (feeble-minded, epileptic, deaf, dumb and blind).** The growth and development of the Western and Southern States and the consequent increase of their charitable demands is shown in the legislation of the year in the states of Idaho, Wyoming and North Carolina. In the first named state an act of the Legislature authorizes the State Board of Education to establish a state school for the education of the deaf, dumb and blind of that state, also giving the state the alternative of entering into contracts with adjacent states or territories which already have such institutions, provided that the cost of taking each pupil shall not exceed \$300 per annum. All children between the ages of 6 and 21 who are too deaf or too blind to be educated in the public schools may receive the benefit of state care. The board of education is further required to ascertain the number of deaf, dumb and blind persons in the state, as a preliminary to the work of providing for their care.



The North Carolina statute creates a state hospital commission consisting of five business men with power to elect its officers. This commission is to be appointed by the Governor and to receive a per diem compensation including traveling expenses. The jurisdiction of the commission extends to the insane and its first duty under the statute is to provide for extending the plans of the present state hospitals for the insane, with a view to providing for the care of mental defectives, including epileptics, idiots and others whose condition is such as to require hospital treatment.

Delaware is to try an interesting experiment along the line of instruction for the indigent adult blind by means of a visiting teacher who shall visit and instruct such persons as shall be determined by the associate judges of the state to be in need of and likely to be benefited by such teaching. The work shall be under the control and direction of these judges, who are given authority to appoint an instructor for a term of one year at a salary of \$1200. The outcome of this experiment will be watched with interest by the states, as it is one which promises to be free from some of the disadvantages attending the provision of workshops and working homes for the adult blind.

The extent to which the state may go in providing education for blind persons is seen in the recent act of the New York Legislature, whereby the State Treasurer is authorized to pay \$300 per annum to blind persons in attendance upon any of the colleges, universities or professional schools in that State, other than an institution for the blind, for the use of such blind persons in employing other persons to read to him from the textbooks used in his studies. No blind student who is not regularly matriculated and working for a degree is eligible to this aid.

The problem of care for the adult blind is being approached by the state of California through the agency of an industrial home for the adult blind, at which instruction shall be given them in addition to care. The object of the home is also to furnish maintenance to blind persons of both sexes engaged in trades and occupations outside of the home, but such persons are required to pay for their maintenance. Colorado on the other hand endeavors to meet this question by the establishment of an industrial workshop for the blind, the general supervision and control of which is vested in a board of three members to be appointed by the Governor. The sum of \$10,000 is appro-

priated for the leasing of a suitable building and for the purchase and installation of machinery. This workshop is to be open to all blind men and women over 21 years of age who have been citizens of the state for at least three years and who can give satisfactory references. All money received from the sale of products shall be applied to the maintenance of the shop.

An important decision has been handed down by the Supreme Court of Ohio in the matter of the auditor of Lucas county versus the state. In 1904 the General Assembly passed an act to provide relief for male blind persons over the age of 21 years and of blind women over the age of 18 years who have been residents of the state for five years and who have no means of support, such relief to consist of a pension of \$100 per year, to be paid by the county in which the blind person resided. The auditor of Lucas county refused to pay a warrant for such a pension in favor of J. Summers esq. of Lucas county. Action being taken by the said Summers, the case was brought to the Supreme Court on a writ of error, a decision favorable to Summers having been given in the lower courts. The Supreme Court held that the act in question was unconstitutional for the reason that it required the expenditure of public funds for the benefit of a specific class of persons. The court holds that while it is unquestionably the right and duty of the state to provide institutions for the care of dependent classes, it is not right or proper for the Legislature to single out any one of these classes to receive a bounty or pension such as was authorized by the law in question. The court states that if the power of the Legislature to confer annuities upon any class of needy citizens is admitted upon the ground that its tendency will be to prevent them from becoming a public charge, then innumerable classes may clamor for similar bounties and it is doubted that any line could be drawn short of an equal distribution of property among the population. If the same view is held by the courts of Wisconsin, the recent enactment of the Legislature of that state providing a similar pension for adult blind persons in that state will also be declared invalid, should a test case be made. Whether the overturning of this law in Ohio will result in efforts to render invalid a number of similar statutes in other states is a matter of conjecture.

**Private charities.** The Legislature of the state of Kansas authorizes the publication of the proceedings of the Kansas Association of Charities and Corrections, which holds an annual



conference for the discussion of topics dealing with charitable and correctional matters. The proceedings of these conferences are thus made a public document and the action of the Legislature in authorizing the expenditure of state funds for this purpose is justified in a preamble to the act, wherein it is stated that the papers and discussions at these conferences are of material benefit to local communities and organizations and of vital interest to the entire state. The objects of this association include the collection of information as to conditions in the state institutions, the most improved methods of management, the number and condition of dependent classes in the state and proper measures for the prevention of crime and pauperism. If careful studies of these matters are made during the year and embodied in the papers presented at the conferences, the proceedings will doubtless be of sufficient value to warrant the state in authorizing this expenditure.

Perhaps the most significant event in the field of private charity in the past year has been the incorporation by special act of the New York Legislature of the Russell Sage Foundation for the purpose of receiving and maintaining a fund of \$10,000,000 and applying the income of this fund to the improvement of social and living conditions in the United States. While this foundation has attracted considerable attention because of its size and the name of the donor, it should be even more noteworthy because of the terms upon which it is given. By stating the general purposes of the fund and then leaving to its trustees the organization and direction of the machinery whereby these objects are to be achieved, Mrs Sage has immeasurably increased the effectiveness of her gift and made it possible for its usefulness to continue indefinitely. With this freedom from outside control or arbitrary verbal restrictions based upon present conditions it will be the fault of the directors and their successors if this foundation does not adapt its work to the changing conditions and needs of the future. The scope of the foundation is well shown in the act establishing it as follows: "a body corporate by the name of Russell Sage Foundation, for the purpose of receiving and maintaining a fund or funds and applying the income thereof to the improvement of social and living conditions in the United States of America. It shall be within the purposes of said corporation to use any means to that end which from time to time shall seem expedient to its members or trustees, including research, publication, edu-



cation, the establishment and maintenance of charitable or benevolent activities, agencies and institutions, and the aid of any such activities, agencies or institutions already established." With such wise management as is assured by the names of the first board of trustees it is safe to predict that this fund may in time come to be the most effective single factor in the investigation and improvement of social conditions in the United States.



THE INSANE

T. E. MCGARR, SECRETARY OF THE NEW YORK STATE COMMISSION IN  
LUNACY

**Governors messages of 1907**

The concentration of responsibility by centralization of control continues to be the keynote in those portions of governors messages of 1907 pertaining to charitable institutions.

Governor Woodruff of Connecticut recommends the appointment of a purchasing agent to act under the direction of the State Comptroller, to purchase goods upon competitive proposals and at the lowest market rates.

Governor Dawson of West Virginia would reduce the present institutional boards to three or four members, or have established a board of control to conduct the public institutions.

Governor Hanly of Indiana recommends the reduction of the membership of institutional boards to four, not more than two to be of the same political party. Local boards, he thinks, should have no power of appointment beyond that of superintendent.

**Active curative treatment.** The importance of curing the insane and restoring them to a self-supporting capacity is dwelt upon at length by Governors Pardee of California, Deneen of Illinois, Johnson of Minnesota, Buchtel of Colorado and Meade of Washington.

Governor Deneen's graphic description of the results of permitting the insane to lapse into chronicity was followed by the enactment by the Illinois Legislature of an admirable plan of state care for the insane of that state which, barring a few obvious defects which may leave open the door to the introduction of favoritism in appointments, constitutes a magnificent advance from previous prevailing conditions.

**Additional accommodations for the insane.** The governors of Minnesota, Colorado, Pennsylvania, South Carolina and South Dakota point out the urgent need of new buildings to accommo-



date the very large annual additions to the insane population of these states.

Perhaps the oddest recommendation contained in a message of any governor during 1907 was that of Governor Glenn of North Carolina, which is quoted in full: "It has been suggested that the state prison is not now needed for convicts and could be made an elegant hospital for the epileptic and dangerous insane; I would advise that you appoint a committee and have them, together with suitable architects, inspect the building and see if this plan is feasible."

### Governors messages of 1908

The message of Governor Harris of Ohio directs the special attention of the Legislature to the subject of charities and refers specially to the necessity of some special state authority over the 23 institutions receiving state aid.

Governor Wilson of Kentucky commends to the Legislature the suggestion that all charitable boards be composed of non-partizan appointees and that political influence be not used in such appointments. He also proposes regular inspection by the Governor of all state institutions.

Governor Warfield of Maryland refers to the statute of 1904 providing complete state maintenance for all dependent insane residents of the state, and recommends that as sufficient buildings will not be available at the time set for the inauguration of state care, January 1909, the present system of assessing the cost back on the counties be continued.

Governor Post of Porto Rico pleads for an extension of the existing asylum for the insane and deplores the present necessity of confining many helpless lunatics in municipal jails.

In Louisiana the pendulum seems to be swinging away from state care, Governor Blanchard suggesting that a return be made to the system of assessing the cost of maintaining patients back to the counties from which they are committed.

Governor Guild of Massachusetts refers to the recent attempt upon his life, in the State House, by an insane patient who had been prematurely released from a state hospital, and recommends that no patient be released from an asylum for the insane without the joint recommendation of two specialists in insanity, appointed by the same court that committed him.

Governor Hughes of New York recommends the appointment of a board of control, an important part of whose functions

should be that of classifying positions and fixing salaries in the charitable institutions and prisons of the state, each subdivision to have representation upon such board through its supervisory boards and officers.

**Increased cost of maintenance.** Governor Swanson of Virginia recommends a substantial increase in the appropriations for the asylums and hospitals of Virginia and refers to the greatly increased cost of food, clothing and labor.

### Legislation

**Hospitals.** The dominant note in legislation during 1907 and 1908 relating to the insane and institutions for their care and treatment, was the provision of active treatment under state supervision in specially constructed and equipped buildings rather than custodial care by counties; in other words the restoration of the insane person to wage-earning capacity rather than permitting him to lapse into chronicity, thus requiring indefinite custodial care.

Massachusetts, Illinois, Michigan, Minnesota, Ohio and New York continued the forward movement in providing psychopathic hospitals and detention pavilions for the early treatment of incipient cases, and extensive building operations have been perfected along these lines.

Massachusetts ('08 ch.626) authorizes the State Board of Insanity to provide for the establishment of a new hospital "conveniently located for the first care and observation of mental patients and the treatment of acute and curable mental disease." Such hospital is to accommodate 120 patients and the necessary officers, nurses and employees. It is also to furnish "adequate provision for the treatment of acute and curable mental diseases and scientific research into the nature, causes and results of mental diseases." A branch of the hospital is to be used for the treatment of voluntary mental patients and is to accommodate 100 patients of this character.

Oklahoma ('08 ch.70 art.4) authorizes the construction of a new hospital to be called the East Oklahoma Hospital for the Insane. Separate buildings for negroes are to be provided, but the statute does not provide for a superintendent having experience in the care or treatment of the insane or institutions for their care. He is to be simply a "skilled physician." Another error of the law is that divesting the superintendent of the



power of appointing his steward and other assistants and employees.

Massachusetts ('08 ch.627) authorizes the city of Boston to establish and maintain a suitable building or certain wards for the reception, medical observation and care of persons suffering from sudden delirium, mental disturbance, transitory excitement or other kindred disorders. It appears that in that city, owing to the lack of such building or wards, patients are frequently placed in the city prison, the House of Detention or House of Correction at Deer Island, pending medical examination or treatment.

Ohio ('08 p.210) provides authorization for the construction in any county of the state of detention pavilions for alleged insane persons, consisting of "a hospital or ward or other suitable place available for this purpose, which shall be in close proximity to the Probate Court, which place shall be under the charge, supervision or control of a superintendent appointed by the probate judge. To such detention hospitals may be committed persons alleged to be insane, whose cases are doubtful or whose insanity is likely to be temporary, and also insane persons who can not be committed to or received into the State Asylum.

New York ('07 ch.524) authorizes the State Commission in Lunacy to select a site for a new hospital for the insane in the southeastern part of the state, and report to the Legislature of 1908 full particulars as to the availability, price and estimated value of the lands to be acquired.

Minnesota ('07 ch.48) provides for the establishment and maintenance at the state hospitals for the insane, of three detention hospitals to be known as First, Second and Third State Detention Hospitals, to be under the supervision respectively of the superintendents of the state hospitals at which they are located. Each person found to be insane, except those criminally insane, shall be committed to the proper detention hospital, there to be kept and treated until the superintendent shall determine and certify either that he is not insane or that he is a fit subject for a state hospital for the insane.

In Minnesota ('07 ch.338) the board of control is authorized to construct a state asylum for dangerous insane in connection with the State Hospital at St Peter, a somewhat different and in many respects a better plan than that followed by other states, such as New York, where entirely different institutions are provided for this class.



**Parole of insane patients.** New York ('08 ch.261) provides that the time for which a committed insane patient may be paroled to the care of his friends may be extended from one to six months, under general conditions approved by the State Commission in Lunacy. Rhode Island ('08 ch.1538) makes a similar provision.

**Change in name.** Nebraska ('07 ch.68) changes the name of the Asylum for the Incurable Insane of Nebraska, to Hastings Insane Asylum.

A happy change is made by Illinois in its revision of the insanity laws by rechristening the Illinois Asylum for Incurable Insane, substituting the more felicitous title, Illinois General Hospital for Insane.

**Voluntary patients.** An important amendment to the insanity law of New York is made ('08 ch.261) providing for the admission to any of the state hospitals, with the exception of the criminal institutions at Matteawan and Dannemora, of so called voluntary patients, i. e., patients who voluntarily apply for admission and whose mental condition is such as to render them competent to make such application. A person thus received shall not be detained under such voluntary agreement more than five days after having given notice in writing of his intention or desire to leave such hospital.

**Maintenance.** Two states of the Union, Virginia ('08 ch.401) and Louisiana ('08 ch.248) provide that there shall be no charge whatever for the maintenance of patients committed to the state hospitals in either of these states.

An indication of the increase in the price of the necessities of life is found in an enactment of Pennsylvania ('07 ch.118), where the rate charged for the maintenance of patients in the State Asylum for the Chronic Insane is increased from \$2.50 per week to \$3. The arrangement for the maintenance of the patients is that \$1 weekly is paid for each patient committed from a given county, the balance of the charge being paid by the state.

**Study of insanity.** Michigan amends its original act organizing the State Psychopathic Hospital in connection with the university at Ann Harbor. A clinical pathological laboratory is to be established, which shall be a central laboratory for the Michigan State Asylums for the Insane and a laboratory in which research into the phenomena and pathology of mental disease shall be carried on. Patients are to be admitted to the

Psychopathic Hospital by the probate judge of Michigan only after the approval of the director of the Psychopathic Hospital has been first obtained.

Massachusetts ('08 r.34) authorizes the State Board of Insanity to investigate and report to the General Court such recommendations as it may deem necessary or expedient as to the best method of providing for the insane with special reference to (1) the care and observation of mental cases, (2) the early treatment of mental diseases and (3) the treatment of acute and curable cases of insanity.

The most striking legislation of the past two years was the enactment of the statute of Indiana ('07 ch.215) providing for the appointment on the staff of all institutions having the care of "confirmed criminals, rapists, idiots and imbeciles," of two surgeons whose duty it should be, in connection with the Board of Managers of each institution, to examine as to the mental and physical condition of its inmates, and also providing that in such cases as are regarded as unimprovable, surgeons may perform such operations for the prevention of procreation as shall be decided safest and most effective.

Wisconsin ('07 ch.296) provides that any man who commits fornication, adultery or incest with any female who is an idiot, insane or imbecile, shall be punished by imprisonment in the State Prison for not more than 15 years nor less than 5 years, thus increasing the range of crime for which this punishment was originally provided.

*New York State Education Department*

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39†

THE FEEBLE-MINDED AND EPILEPTIC

JAMES C. CARSON M. D., SUPERINTENDENT OF THE SYRACUSE STATE  
INSTITUTION FOR FEEBLE-MINDED CHILDREN

In 1907 an unusual amount of attention was given to the subject of epileptics and the feeble-minded, by the governors of the various states.

**Governors messages.** In California a recommendation was made by the Governor to establish an epileptic colony in connection with the home for the feeble-minded. In a populous state like California we believe a wiser step would have been to recommend a separate colony and not try to associate the two classes upon the same premises under one management.

In Colorado a recommendation was made by the Governor, as was also the case in Illinois, urging state care and a segregation of the epileptic class in a separate institution or colony.

In Minnesota the Governor called attention to the lack of accommodation for the epileptics and feeble-minded in the state. He thought that during the next two years at least 400 more should be provided for. He recommended immediate action, both for the welfare of the unfortunate classes and for society itself.

In New Hampshire the Governor mentioned the lack of accommodation to meet pressing demands at the school for the feeble-minded. He suggested that at least 100 more should be provided for without delay. He commended the efficiency of the management of the existing state institution and thought that if a larger number were provided for the average cost of maintenance could be materially reduced. In any event, in his opinion, the expenses of maintenance need not be expected to decrease so long as pressure for admission to the institution continues, and while so few can safely be discharged capable of taking care of themselves without either trouble to the community or a danger of reproducing their kind.



In Oregon a previous Legislature had authorized a State Board of Building Commissioners to locate an institution for feeble-minded and epileptic children and take initiatory steps towards its establishment. The Governor asked legislative notice of the report of the commissioners and manifested a special interest in the matter by recommending prompt action along the lines pointed out in the report of the board.

In Rhode Island the Governor called the attention of the Legislature to the necessity and propriety of establishing a home for the feeble-minded and epileptic. He was of the opinion that the state could build and maintain a separate home for such persons at less cost than was required under existing conditions. He recommended the appointment of a committee of the Legislature to inquire into the matter and report to the Legislature upon the necessity and advisability of establishing such a home in the state.

In Utah the Governor strongly urged provision for feeble-minded children by establishing a school where they can be taught the common branches and trained in such handiwork as will remove at least a portion of their disability. He was evidently not very well informed upon the subject for he seemed uncertain as to whether the provision should be made in connection with the public schools, other state institutions, or entirely separate and distinct. He further suggested that if an institution was provided, epileptics might also be kept in it. He was of the opinion that the number of the epileptic and feeble-minded in that state was not as large proportionately as in many of the older states, but said there were nevertheless enough to warrant the establishment of an institution for their treatment and training.

In Wyoming no separate provision had ever been undertaken for the feeble-minded and it appears that some were being cared for in connection with the hospitals for the insane. The Governor said that arrangement was unsatisfactory and undesirable, which invariably is the case. He recommended legislation upon the subject and wisely suggested that a school should be provided where feeble-minded children could be cared for and taught.

In 1908 the only state in which a recommendation was made concerning the epileptic and feeble-minded was Virginia, where it seems the epileptic class was being provided for in state hos-

pitals for the insane. The Governor very properly called attention to the pressing need of a separate colony for epileptic patients and their segregation from other classes, which he said was demanded alike by both science and a sense of humanity, and further, that each class was unfavorably affected by the presence of the others.

**Legislation.** During the years 1907 and 1908 legislation concerning epileptics and the feeble-minded was not specially important except in the creation of institutions in states where none heretofore existed.

In Alabama a colony for epileptics was established ('07 ex. sess. p.164). In this act commissioners were empowered to select a suitable site, erect buildings thereon, and upon being erected admit to them residents of the state over 5 years of age, subject to epilepsy, who are not insane, after being certified by two physicians. Such persons then to be maintained for care, training and treatment at private expense or at the expense of the counties from which they are sent.

In the states of Maine ('07 ch.44), Oregon ('07 ch.83) and Rhode Island ('07 ch.1470) institutions for the feeble-minded were established, those in Maine and Rhode Island being called "schools for feeble-minded" and that in Oregon an "institution." It is noticed, however, that in Rhode Island, where a "school" was to be established, provision was also made for the admission of feeble-minded persons beyond the school age and a department provided for custodial cases. We do not therefore quite see the propriety of calling the establishment a "school." In Oregon it is noticed that both teachable and custodial cases are to be admitted, as are also epileptics. The phraseology of the several laws establishing these institutions is of the usual stereotyped plan and the laws themselves contain nothing unusual or extraordinary in their features.

In Massachusetts a law was enacted ('07 ch.432) which appears to make a distinction between mildly and violently insane epileptics. If the latter, they are not to be received for care and treatment at the hospital for epileptics but if the former, they may be committed thereto. It would seem as if the operation of this law in many instances might lead to some confusion and possible friction over midway cases between the hospital authorities and those having the power of commitment as to what constitutes a mildly or violently insane epileptic.



A second act ('07 ch.489, amending '06 ch.309), in relation to the commitment of feeble-minded persons to the Massachusetts School for the Feeble-Minded, gives authority to the management to take an inmate who has passed the school age before a probate judge for his decision as to whether he or she may be discharged or retained permanently at the school. Such a law allows for the judicial revision of a case. If the judge decides to allow the inmate to go home, against the advice of the management of the institution, he takes upon himself the responsibility therefor; on the other hand, if he agrees with the management that the inmate should remain, it is believed that the friends will feel that the retention is not a personal matter with the institution officials. Such a law ought to prove very satisfactory in its operation, especially to the school authorities.

A third act ('08 ch.629) appears to be a step in advance, by relieving the counties of the maintenance of their feeble-minded when committed to the state institutions, the state assuming the entire charge for maintenance the same as is done respecting the insane.

In New Jersey ('08 ch.311) an act was passed to provide for the care, maintenance and custody of indigent feeble-minded men. Up to the time of the passage of this act no provision had been specially made in New Jersey for feeble-minded men. The women were provided for in the Home for Feeble-Minded Women and the children, both boys and girls, at the Training School for Feeble-Minded Girls and Boys, each of these institutions being situated at Vineland. The latter institution contained a number of inmates who had reached the age of manhood and the legislation was enacted to secure their removal from that institution, at the same time admitting to their places children capable of being trained and educated. The department thus created for feeble-minded men was to be located upon the grounds of the Village for Epileptics at Skillman. The two classes, we are informed, are not to be associated together, however, the grounds at Skillman being ample to colonize for both epileptic and feeble-minded in separate groups well apart from each other, thereby removing objectionable features that might otherwise be involved.

In Wisconsin the law relating to persons committed to the State Institution for the Feeble-Minded was amended ('07 ch.507) by adding two sections. When the capacity of the institution is found to be reached, the amended law authorizes the



board of control to transfer inmates of the institution to the county asylums. After being thus committed they are then to be provided for at the county asylums under the existing statutes, the same as are the chronic insane. As viewed from this distance the amended law looks like a step backward and as encouraging a system of inferior county care in preference to state care everywhere recognized as superior. It is probable, however, and the act seems to imply it, that the amended law is intended only as a temporary expedient.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 398

THE FAMILY

AMASA M. EATON, PRESIDENT OF THE CONFERENCE OF COMMISSIONERS OF UNIFORM LEGISLATION

1907

**Marriage.** In Massachusetts under chapter 159, amending Revised Laws, chapter 151, section 20, relating to the marriage of minors the provision is added that if the parent whose consent would be required if living in this commonwealth lives outside of the commonwealth and the address of such parent is known, such notice of the pendency of the petition to allow the marriage shall be given to such parent as the Probate Court may order, but no notice shall be required to be given to a parent who has deserted his family.

In New Hampshire chapter 80 provides that no male under 14 and no female under 13 can contract a valid marriage. The age of consent is fixed at 18 years in the male and 16 in the female. Any marriage contracted below the age of consent can be annulled by the Superior Court at the suit of the party below the age of consent, unless confirmed by that party after arriving at such age. Marriage when below the age of consent and above the ages above specified, if rendered desirable by special cause, may be allowed by the court upon petition in writing with formalities prescribed in the act. Provisions to enforce the act through penalties are included.

Utah by chapter 29 amends Revised Statutes 1898, sections 1183, 1184 by declaring marriages between first cousins or persons within and not including the fifth degree of consanguinity to be incestuous, and by prohibiting marriage with any person afflicted with syphilis, gonorrhoea that is uncured, or chronic epileptic fits.

Wisconsin seeks to improve the human race by chapter 642, adding Statutes '98, section 4593m, section 4593n, by forbidding the intermarriage of the insane, mentally imbecile, feeble-minded or epileptic. It is made a misdemeanor to solemnize the marriage of any man and woman either of whom is so afflicted and



no one shall aid or countenance any violation of this act. It remains to be seen how these attempts to improve the breed can be enforced.

California by chapter 241, amending Civil Code, section 69, directs the marriage license to show whether the parties are white, mongolian, negro or mulatto. (It would be more scientific were it to require the parties to state their race or race mixture, instead of requiring it only in the case of the three races named.) A male under 21 or a female under 18 not previously married must have the verified assent of the parent or guardian, which fact must be stated in the license. To ascertain the facts the clerk may examine the male under oath.

Maine provides by chapter 65 that all certificates of record of intentions of marriage shall have printed thereon notice of the law and of the penalty for the solemnization of marriage by any one not commissioned to solemnize marriages.

New York by chapter 742 amends her law of domestic relations by a long act concerning marriage laws. It retains the rational definition of an incestuous and void marriage as those between an ancestor and a descendant, a brother and a sister of either the whole or the half blood, and an uncle and niece or an aunt and nephew. It is made a misdemeanor to solemnize such a marriage. New and minute provisions are made for the acknowledgment of a written contract of marriage before a judge of a Court of Record (§ 6), the exemption of Quakers and others from the necessity of solemnizing marriages otherwise than by their usual manner (§ 7), giving forms for marriage licenses, by whom to be issued, the records to be kept, the penalties, the legitimation of illegitimate children by the marriage of their parents. An evident effort to prevent improper marriages is manifested by North Dakota by chapter 172 requiring the marriage license to be issued in the county where either party resides, instead of in the county where the ceremony is to be performed, as was the law. It makes no provision, however, for the marriages of persons who are not residents in the state.

Vermont by chapter 87, amending Statutes, section 2637, seeks to prevent the marriage of unfit persons by now requiring the consent in writing of the parent or guardian, or in the case of a *non compos* person not under guardianship, or paupers, requiring the written consent of the selectmen or overseer of the poor attached to the original certificate.

Wyoming by chapter 97 amends Revised Statutes, section 2960, 2961 requiring that the county clerk shall ascertain by competent testimony whether there be any legal impediment to the marriage for which a license is applied for, by adding that the inquiry is whether there is any impediment *according to the laws of the state of their residence*.

California by chapter 60, amending the Civil Code, section 70, adds to the list of those who may solemnize marriage, judges of the District Courts of Appeals.

Maine by chapter 99 authorizes the solemnization of marriages by resident clergymen engaged in the service of the religious body to which they belong, the bishop, presiding elder or clerk to certify thereto. The Secretary of State shall issue a certificate to such clergymen authorizing them to solemnize marriage upon receipt of two dollars and the foregoing certificate.

In New York under chapter 480, amending Laws 1896, chapter 272, section 11, subdivisions 2 and 3, a marriage can no longer be solemnized by a justice of the peace, but only by the mayor, city clerk or police justice among the officers of the city in cities which contain more than 100,000 and less than 1,000,000 inhabitants. The reason for this law is not apparent. In cities of more than a million inhabitants it would seem that a justice of the peace can still solemnize marriages. Such technical variations in cities of different sizes as to who can solemnize marriages is vexatious and undignified.

Wyoming in chapter 37 amends Revised Statutes 1899, section 2962 by adding that every court commissioner of any District Court may perform the ceremony of marriage.

**Divorce.** Delaware (ch.221) has adopted the Uniform Divorce Law framed by the National Divorce Congress of 1906 and approved by the Conference of Commissioners on Uniform State Laws, repealing all its former divorce laws.

Kansas by chapter 184 provides that any judgment or decree of divorce rendered upon service by publication in any state of the United States in conformity with the law thereof shall be given full faith and credit in this state and shall have the same force with regard to persons now or heretofore or hereafter residents of this state, as if rendered by a court of this state. (Is this law intended to overcome the results of some of the divorce cases decisions by the Supreme Court of the United States?)

Michigan by chapter 324, amending Compiled Laws, section 8623, that provided that no divorce for any cause mentioned in the



preceding section shall be granted when not asked for in the bill of complaint or by a defendant on a cross bill, now adds *unless the court shall deem it to be for the best interests of the parties.*

Montana declares that adultery, extreme cruelty, wilful desertion, wilful neglect, habitual intemperance and conviction of felony are causes for absolute divorce, separation from bed and board, or for decrees for separate maintenance, and defines extreme cruelty by chapter 118, amending Civil Code, sections 132, 134.

New Jersey, by chapter 216 has adopted the Uniform Divorce Act framed by the National Divorce Congress in 1906 and approved by the Conference of Commissioners on Uniform State Laws, repealing her former divorce laws.

South Dakota enacted chapter 132 relating to divorce, requiring the plaintiff to be a resident of the state one year and of the county three months except where the parties were married in this state and the plaintiff shall have resided herein continuously since marriage. If the cause arose in this state, only six months residence of the plaintiff is required. Upon a petition invoking the referendum pursuant to the Constitution of this state this law was submitted to a referendum vote in November 1908 and was adopted.

Nebraska by chapter 50, amending Cobbey's Annotated Statutes, 1903, section 5348, now provides that upon a decree of absolute divorce the innocent party shall not be entitled to any share or interest in the real estate of the guilty party, unless expressly awarded in the decree.

New Hampshire (ch.31, amending P. S. ch.176 §4) providing procedure whenever the husband is insane or a cause is in existence furnishing the wife with a cause for divorce now adds that *pendente lite* the court may order a temporary allowance to the wife.

In Vermont (ch.88) upon divorce from bed and board the wife may convey her real estate without the signature or consent of her husband, and the law of descent applicable to absolute divorce shall apply.

Maine (ch.148, amending R. S. '03 ch.62 §2) adds insanity to the causes for divorce when in consequence thereof the libellee has been confined in a state insane asylum 15 years and is incurable. But in such case the libellant shall be liable for the support of the libellee unless the libellee be of sufficient means.



North Carolina by chapter 89 amends Revisal 1905, section 1561, by adding to the causes for divorce the separation of husband and wife for 10 successive years, residing in the state and having no children.

Colorado (ch.173, amending '93 ch.80 § 9) provides the new feature that upon final decree in favor of a wife and her remarriage the court may discontinue her alimony, except as it relates to the support of minor children.

Iowa (ch.161, amending Code § 3181) puts a check upon hasty marriage after divorce by making it a misdemeanor to marry again within one year from the filing of the decree of divorce, unless the decree provides otherwise or the parties remarry.

In Colorado (ch.123) divorce may be granted by a jury of three, unless a greater number, not exceeding 12, be demanded by either party. In that case the demandant shall pay the expenses of the additional jurors. This would seem to be intended as a check upon other than a jury of three in a divorce case and unless justified by the Constitution of that state, as a special tax upon the administration of justice in one class of cases, it would seem to be of doubtful constitutionality. The act further provides that in noncontested cases divorce may be granted by the court without a jury, in which case it shall not be necessary for the court to appoint an attorney to represent the defendant.

Massachusetts by chapter 390 authorizes any justice of the Superior Court to appoint an attorney to investigate and defend any divorce suit, and upon his request the police and probation officers shall assist him.

Michigan by chapter 315 amends Compiled Laws 1897, section 8657 by adding that in a divorce case where there are no children under 14 the prosecuting attorney of the county may be ordered to appear and oppose the granting of a decree of divorce when the court finds that the public good so requires.

**Family property.** New Mexico (ch.37) amends her legislation concerning the property rights of husband and wife. They are separate unless otherwise specified. Husband and wife may contract with each other or with any person as if unmarried. They may separate by mutual consent. The separate property of each before marriage remains the separate property of each after marriage. Property acquired by either after marriage becomes community property and is held in joint tenancy. Courtesy and dower are abolished. Marriage settlements must be executed, acknowledged and recorded as are deeds of real estate.

Idaho by act of 1907 (p.346) has amended Revised Statutes, section 5713 and repealed section 5712. Upon death of husband or wife half of the community property shall go to the survivor *subject to the community debts* and half shall be subject to testamentary disposition by the decedent *subject to the community debts. If there is no will half shall go to the heirs of his or their bodies. If there is no issue or their representatives living, it shall all pass to the survivor, in all cases subject to the community debts, family allowance and costs of administration.* (The new features are in italics.)

The Supreme Court of Oregon in *Davidson v. Richardson*, 91 Pacific 1080, (1907) has declared unconstitutional the act of 1893 (p.194) because by enlarging the dower estate it withdrew part of a judgment debtor's property from lien and sale, thereby impairing the obligation of a previous contract.

Oregon (ch.87) amends Bellinger and Cotton's Annotated Code, section 5544 and now restricts curtesy to half of wife's lands, even though no issue be born alive, to be admeasured, assigned and barred in the same manner as dower.

Oregon by chapter 170, amending Bellinger and Cotton's Annotated Code, sections 5227, 5537, authorizes husband or wife to appoint the other spouse as attorney in fact to sell, convey, mortgage or bar dower or curtesy (in addition to giving power to dispose thereof, as previously). A wife may bar her dower (but not to a stranger to the title) by joining in the deed or by executing a separate deed.

Pennsylvania (ch.263 supplemental to '56 ch.568 § 10, concerning partition suits) now provides that the widow's third shall be paid to trustees appointed by the court, where she is the highest bidder. (The reason is not apparent.)

Indiana (ch.76) provides that any married woman under 21 may convey or mortgage her separate real estate, if her adult husband joins therein.

In Minnesota under chapter 123, amending Revised Laws 1905, section 3335, the wife may convey her real estate except the homestead and her husband's rights therein by her separate deed. Either husband or wife may separately appoint an attorney to sell or convey his or her real estate.

Arkansas by chapter 393 authorizes the chancery courts to set apart a life estate in part of the real estate of a husband of an insane wife in lieu of a dower in the whole of it, and may authorize the husband to convey the remainder free of dower.



In Nebraska by chapter 99 (repealing '05 ch.61), where either spouse has been insane three years, the guardian may petition for leave to sell the realty, the act giving details as to the proceedings.

Oregon (ch.194) provides that in case of insanity of husband or wife the sane spouse may convey the real estate acquired after such insanity by the sane spouse as though unmarried during the continuance of such disability.

Wisconsin (ch.427) amends Statutes 1898, section 2172a. A woman who is insane or mentally incompetent at the time of her husband's death may have her election of rights in his estate by a duly appointed guardian, or by her executor or administrator if she leave issue by her deceased husband.

**Support of family.** California (ch.63) amends Civil Code, section 137, providing procedure when the husband wilfully deserts the wife, by adding that when he wilfully fails to provide for her or she has any cause of action for divorce without applying for divorce, she may sue him for permanent support and maintenance of herself and children if any.

California (ch.74) adds two new sections to Penal Code, 270a, 270b, making it a misdemeanor for a husband to fail to support his wife and children, unless by his wife's misconduct he was justified in abandoning her. He may give bond that he will furnish such support, and upon failure to support he may be sentenced.

Georgia (p.57) amends Penal Code, section 114, relating to abandonment of children by the father, adding that all children thus abandoned by the father shall be considered to be dependent when the father does not furnish sufficient food and clothing for the needs of the child.

Idaho (p.303) makes it a misdemeanor for a man to neglect to support his wife or minor children, authorizing the court to accept bond so to do in lieu of enforcing the penalty and making the wife a competent witness against the husband, with or without his consent.

Indiana by chapter 49 amends Laws 1905, chapter 169, section 635, concerning desertion of wife or child, now making such desertion except for adultery or vicious conduct, leaving her without reasonable means of support, a felony punishable by from one to three years' imprisonment, disfranchisement or a fine with imprisonment in the county jail or workhouse not exceeding a year.



Indiana by chapter 105 makes it a felony for the father or, when charged with maintenance, for the mother to neglect to provide for their children under 14, punishable by imprisonment in jail or workhouse, authorizing acceptance of bond to support, with suspension of sentence unless the neglect continues.

Iowa by chapter 170 provides that every person neglecting to maintain his wife or children under 16 shall be deemed guilty of desertion punishable by imprisonment for not more than six months. The husband or wife may testify for the state, but not against each other except upon the other's consent. Bond to furnish support may be furnished with penalty upon its breach until he or she may be released. Proof of desertion is made *prima facie* evidence of wilfulness.

Maine (ch.42) likewise passed an act to prevent desertion and nonsupport of one's family, making the offense, however, only a misdemeanor and providing for a bond.

Michigan (ch.144) amends Laws 1903, chapter 39 by providing for the payment of \$1.50 to the wife with 50 cents for each child, per week, of a person imprisoned under sentence for desertion in lieu of his earnings while so imprisoned.

New Hampshire by chapter 71 makes it a misdemeanor for a husband or father to separate himself from his wife and children and to neglect to provide for them, with penalty by fine or imprisonment or both with a provision for suspension of sentence during compliance with the order of the court for the support of the family. The same offense in the case of a wife or mother is also made a misdemeanor, but no provision is made for suspension of the sentence.

In North Dakota chapter 136, amending Revised Code 1905, section 4082, adds that the husband and wife shall be jointly and severally liable for any debts of either contracted while living together for necessities for themselves and their family and for the education of their minor children.

Oregon by chapter 78 makes it a misdemeanor to fail to support wife or child, punishable by imprisonment and liability to be compelled to work on the public roads or work, with provision for support of wife and child not to exceed \$1.50 per day while he so works. Defendant may give bond that he will pay a certain sum weekly for not more than one year for such support, and be released on probation with sentence suspended until default in obeying the court's order. Cohabitation or birth of child is made

prima facie evidence of status as husband and wife. A wife shall be a competent and compellable witness.

Pennsylvania by chapter 176 empowers a wife to bring her action at law or in equity for maintenance against her husband separating himself from her without reasonable cause, being of sufficient ability, who neglects or refuses to provide suitable maintenance for her. If he is an absentee, she may proceed against his property.

Rhode Island by chapter 1447, amending General Laws, chapter 281, changing section 24 and adding section 38, makes it a misdemeanor to neglect to support wife or children with penalty of imprisonment.

South Dakota by chapter 197 amends Revised Penal Code 1903, section 341 by adding to the misdemeanors therein enumerated that of the failure of a husband without lawful excuse to perform any duty imposed on him to furnish necessities for his child or wife.

Tennessee by chapter 56 makes it a misdemeanor punishable by fine or imprisonment or both for a husband to desert his wife or child wilfully and without good cause. No other evidence shall be required of marriage or that he is the father of the child or children than would be necessary in a civil action.

Texas by chapter 62 also makes it a misdemeanor to desert or neglect to provide for wife or children, punishable by fine or imprisonment or both. Sentence may be suspended on entering into a recognizance to obey the order of the court to pay a certain sum weekly to the wife. No other evidence is required of their married status or that he is the father of the children than is necessary to prove such facts in a civil action.

Revised Statutes of Utah, 1898, section 4224, making it a misdemeanor for a parent or guardian of any child to wilfully omit without lawful excuse to perform any legal duty to furnish necessities for such child, is now amended by chapter 130 so that it is no longer a misdemeanor but an offense punishable by fine or imprisonment or both, limiting the duty to under 16 years of age of the child with provision for entering into a bond for such support and suspension of the sentence unless breach is made.

Washington by chapter 103 makes it an offense punishable by fine or imprisonment or both to neglect to provide for one's wife or children. The court may suspend sentence and release the defense on probation upon his entering into a recognizance to obey the order of the court as to the allowance ordered. No other



proof of marriage or that he is the father of the children is required than is required to prove such facts in a civil action.

**Children.** In Arizona, chapter 12 makes it a misdemeanor for the guardian or custodian of a child wilfully to cause or permit its life to be endangered, its health injured or its moral welfare imperiled, punishable by fine or imprisonment or both.

Paragraph 2039, Revised Statutes of Arizona, is amended by chapter 21 so that now any minor child, domiciled two years in the territory, whose parents are unknown, not under the care of any orphan or children's association, may be adopted under the provisions of the act with the consent only of those having its actual care in the territory. By an amendment to Civil Code of California, section 226, made by chapter 266, concerning the adoption of children by petition to the County Court, the consent of those necessary must be made in open court only if they reside in the county, otherwise it must be filed in writing, duly acknowledged.

The practical inconvenience of requiring attendance in open court of parties residing far away, even though in the state, probably led to this change.

In California by chapter 268, amending Civil Code, section 224, any abandoned child left in the care of another for one year or more may be adopted with the consent of the district attorney of the county wherein the person resides who applies to adopt such child.

In Delaware under chapter 223 the child of unfit parents may be adopted upon petition to the resident judge of the county where the child resides, and the judge may require a bond.

Illinois by an act (p.3) has amended Revised Statutes 1874, sections 1, 2, 3 in relation to the adoption of children. As amended, any reputable person may petition the County Court for leave to adopt a child, but if married, the petitioner's spouse must join and the adoption shall be jointly. The petition, verified by affidavit, must state the cause for adoption, the name if known, sex and appropriate age of the child, the name if known, or that it is unknown, of the custodian, parents or of the surviving parent, if illegitimate, the name of the mother, or of its guardian, or if there be none, of a near relative or that none such is known to the petitioner, with the residences of such of these as are known to the petitioner. All these are to be made defendants by name and are to be summoned if residents of the state. All such persons whose names are unknown to the petitioner shall be defendants under "all whom it may concern." These provisions do not



apply to those legally deprived of the child's custody nor to a guardian duly authorized to consent to the child's adoption. Notice by publication is provided for to defendants out of the state or not to be found or "all whom it may concern." Minute provisions are made as to service, return day, time to answer, the effect of the petition and of the answer as evidence, failure to answer, findings, reasons on which a decree may be based, the decree etc. from which the inference might be drawn that there is no general law regulating procedure in this state. The statute is a fine example of minute and unnecessary prolixity and cumbersome-ness of detail.

Massachusetts by chapter 405, amending Revised Laws, chapter 154, section 3, adds that if the child to be adopted is supported by a city or town, notice of the petition shall be given to overseers of the poor thereof, and in the city of Boston notice shall be given both to the overseers of the poor and to the trustees for children.

Minnesota by chapter 58, amending Revised Laws 1905, section 4060, adds a clause requiring a parent or guardian suing for an injury to a child or ward to file a bond in such form and with such surety as the court shall prescribe before receiving money or property in settlement.

Montana (ch.140 amending C. C. § 310) now requires that any one adopting a child must be a citizen or capable of becoming a citizen of the United States, and must be of the same race as the child to be adopted.

Rhode Island (ch.1423) amends General Laws, chapter 192, section 1, and now any person may petition for leave to adopt a child not his own, and the Probate Court of the town in which the child to be adopted resides shall have exclusive original jurisdiction of such petition.

South Carolina (ch.267 amending C. C. '02 §2704) now enacts that the written consent of the petitioner's wife must be filed with the clerk of the court before a man can adopt an illegitimate child.

Texas (ch.47 amending R. C. S. '95 tit. 1) adds (art. 2a) that the parents of the child to be adopted may transfer their parental authority and the custody of the child to the person adopting it by an instrument in writing duly acknowledged, reserving authority to the court to restore such rights. No white child can be adopted by a negro, nor can a negro child be adopted by a white person.

Utah (ch.75 amending, R. S. '98 § 1) adds that a child not a minor whose parents are both dead may be adopted by another adult.

Wyoming (ch.8 amending, R. S. '99 § 3015) provides that the word "parent" shall be held to include any children's home or children's society having the lawful care or custody of the child sought to be adopted, whenever there is no known natural parent or guardian of such child.

**Change of name.** California (ch.275 amending C. C. P. § 1279) now provides that a certified copy of the decree of the court changing the name of a person or corporation shall be filed in the office of the Secretary of State within 3 days from the date of the decree.

### 1908

A marriage can no longer be solemnized by a justice of the peace but only by the mayor, city clerk or police justice among the officers of the city in cities which contain more than 100,000 and less than 1,000,000 inhabitants. In New York (ch.73 amending '96, ch.272 § 6 subds. 2, 3) this would seem to be enacted to bring this section into line with Laws 1907, chapter 480.

Oklahoma by chapter 55 (art.1) amends Statutes 1903, section 3482 etc. concerning marriage, making an exception as to forbidden marriages where the relationship is only by marriage and forbidding the marriage of second cousins as well as of first cousins. Consent to marry if in writing must be acknowledged. The marriage license must be issued by the judge or the clerk of the county court.

Alimony may now be awarded in Maryland by chapter 324 (p.12), amending Code Public General Laws, article 16, and providing that where a nonresident sued for divorce has property in the state, it shall be liable for any alimony awarded.

The act framed by the National Divorce Congress of 1906 providing for the return of statistics relating to divorce proceedings has been adopted in Louisiana (ch.307).

Louisiana by chapter 122 requires the marital status of the parties to be stated in acts passed by notaries public.

North Carolina by chapter 132 amends Revisal 1905, section 3084, by providing that it shall not be construed so as to compel the jury to allot dower in the dwellinghouse in which the husband usually resides, when the widow requests that it be allotted in other property.

In Maryland by chapter 486 (p.150) the Governor is to appoint a commission of five discreet persons, at least three of whom shall be residents of Baltimore, to revise the laws relating to the desertion and nonsupport of wives and children and the arrest, trial, commitment, detention, punishment and custody of minor children; it is to report to the next General Assembly with recommendations.

Maryland by chapter 694 (p.79), adds to the Code of 1904 provision that the earnings of any person imprisoned in the Maryland House of Correction for desertion of wife or child may be paid to or for his family.

Massachusetts by chapter 104 provides that a convict liable for nonsupport of his family may be released on bond conditioned on payment of amounts fixed by the court. This revives 1905, chapter 307, amending Revised Laws, chapter 212, section 45.

Ohio (p.228) has passed a general act of eight sections to compel parents to maintain their children.

In New York chapter 297 amends the Code, section 1771, giving power to the court upon application and due notice after final judgment to amend by inserting such direction as justice requires for the custody, care, education and maintenance of the child, where the decree of divorce has failed to make such provision.

In Virginia chapter 332, amending and reenacting the Code, section 3138, provides that upon application for change of name and order granting it the clerk of the court shall enter the order upon the current deed book and shall index it in both the old and new names of such person. Any person changing his name or assuming a new name unlawfully is guilty of a misdemeanor punishable by fine and upon repetition by imprisonment.





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REVIEW OF LEGISLATION 1907-8

LEGISLATION 391

**PUBLIC HEALTH AND SAFETY**

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**General supervision.** The years 1907 and 1908 were marked by many important steps in the development of sanitary organization. Georgia ('08 p.1037) and Ohio ('08 p.627 res.) memorialized Congress in behalf of a National Bureau of Public Health, presumably under the influence of the Committee of One Hundred; but of far greater practical promise is the growth in power and efficiency of the State Boards of Health, which was manifest in Alabama ('07 p.893), California ('07 ch.492), Idaho ('07 p.182), Illinois ('07 p.537), Kansas ('07 ch.379), Massachusetts ('07 ch.537), Montana ('07 ch.110), New Jersey ('08 ch.299), Ohio ('08 p.492), Oklahoma ('08 ch.79, art.2), Rhode Island ('08 ch.1519), South Carolina ('08 ch.433), Utah ('07 ch.53) and Virginia ('08 ch.361). This is an extraordinary record for two years and is highly significant of the remarkable awakening in sanitary science which is going on at the present time. Many of the laws are of course merely amendments simplifying or extending earlier legislation; but in California, Idaho, Massachusetts, Montana, New Jersey, Oklahoma, South Carolina and Virginia the changes are far-reaching. The California statute formulates a general organic law of public health, covering chiefly the protection of water and ice supplies and the control of zymotic diseases. The Idaho, Montana and Oklahoma statutes create new state boards of health. In Idaho the board consists of five members, one of whom is the secretary (salary \$1800); in Montana there are seven members including the secretary (\$3000); in Oklahoma the office of State Commissioner of Health is created (\$1800). In New Jersey practically a new board of health is provided by the reorganization of the old board and the merging with it of the State Sewerage Commission and other bureaus. The new board consists of six members (each \$1500), one of whom shall act as secretary (\$2500). While the new boards in Idaho, Montana and Oklahoma show the trend of affairs in the West, the new laws in South Carolina and

Virginia are symptomatic of the awakening of the South. In South Carolina the office of State Health Officer is created (salary \$2500); and in Virginia the board is reorganized, with a membership of 12, and a health commissioner (\$3500), assistant health commissioner (\$2500), bacteriologist (\$2500) and clerk (\$1200). This legislation was urged by Governor Swanson (Jan. 8, 1908) in a notable passage of his annual message. Governor Post of Porto Rico, in his annual message to the Legislature of the island, emphasized the need for sanitary reform as follows: "The most important matter before this session is the protection of public health. There is practically no definite sanitary system in existence, as the powers and duties pertaining to public health are divided between the local and insular authorities and in no case is the division of responsibility clearly defined."

The Utah law ('07 ch.53), providing for an annual convention of local health officers, marks a step in the coördination between state and local authorities; and very important progress along this line has been made in Massachusetts. The new statute ('07 ch.537) provides for the division of the state into 15 health districts and the appointment of district medical inspectors of health. These inspectors are to inform themselves concerning the sanitary condition of their districts and the prevalence of tuberculosis and other diseases, to disseminate knowledge of preventive measures and to confer with the State Board of Health and with the local authorities. Furthermore the duties of factory inspection in regard to sanitation, ventilation and lighting of factories and the supervision of the health of minors employed in factories are transferred from the district police to the medical inspectors of health. These officers thus serve a dual function, as expert factory inspectors, and as a means of coördinating state and local health administration. An annual appropriation of \$30,000 is made for the purposes of this act.

**Local boards and officers.** Minor changes were made in many states in regard to local boards and officers. In New York it is provided that local boards must pay the expenses of their representatives at the annual health conference ('07 ch.189) and the term for local health officers, except in cities of the first and second class, is fixed at four years ('07 ch.225). In Vermont the State Board of Health is empowered to designate a health officer for a gore or unorganized town ('06 ch.168). In West Virginia ('07 ch.66) a new provision is made for local boards of health to be appointed by the state board on nomination of the municipal council. In Wisconsin



('07 ch.140) the state board is given power to designate a local board of health if the local authorities fail to do so.

**State laboratories.** New York provided three years ago ('06 ch. 271) for the employment of a bacteriologist by the county of Ontario, and this privilege is now extended to any county ('08 ch.255). Maryland enlarges the laboratory facilities of its state board by increasing the appropriation for the bacteriological laboratory ('08 ch.399) and by creating the office of chemist to the board ('08 ch.345). Other legislation bearing on state laboratories was enacted in Michigan ('07 ch.109) and North Dakota ('07 ch.238), in each case providing for the establishment of a bacteriological laboratory in conjunction with the State Board of Health. \$5000 is appropriated in Michigan and \$2000 in North Dakota. Increased appropriations for public health laboratories were made in Idaho, Iowa (\$5000) and Maine (\$4500).

**Vital statistics.** The year 1907 marked a considerable development along the line of legislation for the improvement of vital statistics. In California ('07 ch.56, 92, 236) the old law was amended and strengthened in important respects. In Minnesota ('07 ch.454) the statute of 1905 was so extensively recast as to be practically a new law. Entirely new systems for the registration of vital statistics were created in Colorado ('07 ch.112), Indiana ('07 ch.152), Montana ('07 ch.25), New Mexico ('07 ch.91), North Dakota ('07 ch.270), Washington ('07 ch.83), Wisconsin ('07 ch.469) and Wyoming ('07 ch.99). In the next year, 1908, an elaborate law for the collection and registration of vital statistics was enacted in Ohio ('08 ch.296). In urging this legislation Governor Harris (Jan. 6, 1908) said that "not more than 60 per cent of deaths in Ohio are recorded" and "Ohio is far behind most of the other states in this respect, and the necessary machinery to insure thorough and accurate records of all births and deaths occurring throughout the state should be provided without further delay." Governor Blanchard of Louisiana (May 12, 1908) made a similar plea for the collection of vital statistics in his state.

Prior to 1907 the only states with sufficiently good mortality records to be admitted to the Registration Area of the United States Census were the six New England states, New York, New Jersey, Michigan and Indiana. In 1907 Pennsylvania, Maryland and South Dakota were admitted, as a result of the successful operation of earlier laws, and California and Colorado were also taken in. The new laws noted lead to the acceptance of Washington and

Wisconsin in 1908 and of Ohio in 1909. In all the 1907 and 1908 laws, except that of New Mexico, the filing of a proper death certificate is required before the issuance of a burial permit.

**State control of medicine.** Unusually good progress has been made during the last two years in regulating the practice of medicine. The most important new laws to this end were enacted in Alabama ('07 p.591), California ('07 ch.212), New Mexico ('07 ch.34), New York ('07 ch.344), Oklahoma ('08 ch.70a art.1) and Texas ('07 ch.123). In Alabama the board of censors of the State Medical Association is made a State Board of Medical Examiners. All applicants must be examined in writing and provision is made for reciprocity and for the revocation of licenses. In California a board of 11 members is to be appointed, representing regular practitioners, homeopaths, eclectics and osteopaths. Candidates are required to present diplomas from medical schools of good standing and to pass examinations partly or wholly in writing. The New Mexico board of seven members must be appointed from a list submitted by the State Medical Society. Applicants must either present a medical diploma from a school of good standing or pass a satisfactory examination. The "practice of medicine" is widely defined in this act. The New York law creates a new board of nine members, appointed by the Regents of the State University, which supersedes separate state, homeopathic and eclectic boards. Educational and examination requirements are stringent. Reciprocal registration is provided for. The new Oklahoma board consists of nine members representing various "schools" of medicine and it is provided that "no one of such schools shall have a majority on said board." The usual diploma and an examination, wholly or partially in writing, are required. The Texas board has 11 members and is governed by a similar provision as to the representation of various bodies of practitioners. All examinations are to be in writing. Minor changes in registration laws have been made in Connecticut ('07 ch.82), Delaware ('07 ch.139), Illinois ('07 p.378), Louisiana ('08 ch.244), Michigan ('07 ch.164), Missouri ('07 p.359), New Jersey ('08 ch.199), Utah ('07 ch.88), and West Virginia ('07 ch.66). Many of these acts provide a standard of preliminary training prior to entrance in the medical school. New definitions of the "practice of medicine" have been framed in Kansas ('08 ex. sess. ch.63), Louisiana ('08 ch.244), Maryland ('08 ch.120), Missouri ('07 p.358), Montana ('07 ch.101) and Wisconsin ('07 ch.363). The Missouri law, which is concise and yet very broad, begins as fol-



laws: "Any person practising medicine or surgery in this state, and any person attempting to treat the sick or others afflicted with bodily or mental infirmities, and any person representing or advertising himself by any means or through any medium whatsoever, or in any manner whatsoever, so as to indicate that he is authorized to or does practise medicine or surgery in this state, or that he is authorized to or does treat the sick or others afflicted with bodily or mental infirmities." Reciprocity is provided for by amendments in Illinois ('07 p.378), Louisiana ('08 ch.244), New Hampshire ('07 ch.17), North Carolina ('07 ch.890), South Dakota ('07 ch.202) and West Virginia ('07 ch.66).

The regulation of **midwifery** in the city of New York is authorized by a special act of the New York Legislature ('07 ch.432).

New boards of registration in **optometry** are created in Arizona ('07 ch.29), Idaho ('07 p.574), Indiana ('07 ch.187), Montana ('07 ch.138), Nebraska ('07 ch.85), New York ('08 ch.460), Tennessee ('07 ch.39) and Utah ('07 ch.85).

Special provision for the registration of practitioners of **osteopathy** has been made in Delaware ('07 ch.139), Idaho ('07 p.128), Louisiana ('08 ch.185), North Carolina ('07 ch.764), Oregon ('07 ch.235) and South Dakota ('07 ch.195). Special boards are created for the purpose in all these states except Delaware and Oregon; and in the latter case a new osteopath member is added to the Board of Registration.

New laws in regard to the practice of **dentistry** mainly embody changes of a minor character. Far-reaching laws involving a general reorganization of the system of registration were enacted in Idaho ('07 p.547), Michigan ('07 ch.338), Ohio ('08 p.66) and Pennsylvania ('07 ch.127). The Pennsylvania law provides for a dental council consisting of the Secretary of Internal Affairs, the Commissioner of Health, the Superintendent of Public Instruction, the president of the State Dental Society and the secretary of the Board of Dental Examiners. This body grants licenses to properly qualified persons, after the successful passage of examinations conducted by an independent board of dental examiners. New provisions for reciprocity in licensing have been made in Kansas ('07 ch.196), Minnesota ('07 ch.117) and West Virginia ('07 ch.69).

New Jersey ('08 ch.194) has enacted a stringent law regulating the practice of **chiropody** and requiring a diploma conferring the degree of doctor surgeon chiropodist and a written examination in anatomy and physiology of the feet, therapeutics, chem-



istry, minor surgery and bandaging pertaining to the ailments of the feet.

In regard to registration in **pharmacy** more or less extensive changes in the code have been made in many states. The Alabama ('07 ex. sess. p.81) and North Dakota ('07 ch.182) boards are reorganized and new boards are created in Colorado ('07 ch.224), Delaware ('07 ch.140), Texas ('07 ch.186) and West Virginia ('07 ex. sess. ch.12).

**Communicable diseases.** General legislation in regard to communicable diseases has been of comparatively slight importance. Provisions are made in several states for the care or compensation of isolated persons. Free distribution of diphtheria antitoxin is ordered in Indiana ('07 ch.163), Ohio ('08 p.19) and Wisconsin ('07 ch.140). A new law in Massachusetts ('08 ch.381) provides that public mutoscopes "or any other machine or apparatus of such nature that the person using the same breathes or speaks into it, or, for the purpose of seeing or hearing, holds any part thereof in contact with or near to his eyes or ears, be disinfected in such manner as shall be approved by the local board of health at least twice in such hours, in every 24 hours, as the machine or apparatus is offered for use by the public. This act shall not apply to telephones."

Oregon ('07 ch.70) has passed an elaborate organic act for the establishment and enforcement of quarantine regulations. Placarding is required and quarantine may be declared by local or state authorities. The running of steam or electric cars, steamboats and other conveyances is not to be prohibited but must be carried on under regulations and subject to inspections by the proper authorities.

**Special diseases.** With the exception of a law providing for the Pasteur treatment of rabies in North Carolina ('07 ch.891) and a law providing for the exclusion from school of unvaccinated teachers and pupils in Wisconsin ('07 ch.113), no important laws were passed except those dealing with tuberculosis.

Tuberculosis laws were, however, of considerable significance and bear eloquent witness to the good results of the campaign of popular education which has been carried on in connection with that disease. In Alabama ('07 p.705), Georgia ('08 p.101), Indiana ('07 ch.125), Maine ('07 r.50), Massachusetts ('07 ch.474), North Carolina ('07 ch.964) and Pennsylvania ('07 ch.157) new state sanatoriums are authorized. In Maine it is the tuberculous insane who are speci-

fically provided for. In Pennsylvania the appropriation is \$600,000 for "one or more sanatoriums or colonies," in Massachusetts, \$300,000 for three sanatoriums. In Kentucky ('08 ch.12) special provision is made for an annual grant to private sanatoriums, not to exceed 20 per cent of the total sum expended in equipping and establishing them. For popular education in regard to tuberculosis, \$2000 has been appropriated in California ('07 ch.458) and \$5000 in Iowa ('07 ch.147). A new law in Massachusetts ('08 ch.181) specifies that instruction in physiology and hygiene in the public schools shall include a discussion of tuberculosis and its prevention. Prisoners suffering from tuberculosis are to be segregated in North Carolina ('07 ch.567) and Virginia ('08 ch.41). An elaborate New York statute ('08 ch.351), strongly urged by Governor Hughes (Jan. 1, 1908), deals with the specific control of tuberculosis, in considerable detail. Tuberculosis is declared an infectious and communicable disease and reporting by physicians is required. Health officers of cities, towns or villages must examine sputum for diagnosis. Disinfection under the direction of the local health officer is required after vacation of premises by death or removal. An important section provides that "any person having tuberculosis who shall dispose of his sputum, saliva or other bodily secretion or excretion so as to cause offense or danger to any person or persons occupying the same room or apartment, house or part of a house, shall, on complaint of any person or persons subjected to such offense or danger, be deemed guilty of a nuisance." Local health authorities are required to transmit to the physician reporting a case of tuberculosis a printed statement of the proper precautions to be taken on the premises against the spread of the disease and the physician must satisfy the health officer as to the fulfilment of these requirements.

**Practice of embalming and undertaking.** Legislation in regard to embalming has been mainly of a minor nature, although new boards of registration are created in Iowa ('07 ch.140), Kansas ('07 ch. 387) and Rhode Island ('08 ch.1575).

**Nuisances.** In Rhode Island ('08 ch.1523) the burning of waste materials of any sort on a dumping ground, in such a manner as to be a nuisance to owners or occupiers of neighboring land is specifically prohibited. In Washington ('07 ch.243) power is given to cities of the first or second class to fill in private lands which lie at so low a level in regard to street grades that they can not be properly drained. No other nuisance laws of importance have been en-



acted with the exception of those dealing with expectoration. Anti-spitting ordinances were passed during the two years under consideration in California ('07 ch.82), Delaware ('07 ch.253), Louisiana ('08 ch.91), New Mexico ('07 ch.86), Rhode Island ('08 ch.1595), Tennessee ('07 ch.594) and Vermont ('06 ch.187). The Delaware law refers only to public conveyances, the Louisiana and Tennessee laws to public conveyances and public buildings, the Vermont law to sidewalks and public buildings. The California, New Mexico and Rhode Island prohibitions cover streets, buildings and conveyances, all three, but in Rhode Island smoking cars are especially exempted.

**Pollution of water.** Important laws in regard to stream pollution and the protection of water supplies have been enacted in Kansas ('07 ch.382), Montana ('07 ch.177), Ohio ('08 p.74), South Carolina ('07 ch. 253) and Wyoming ('07 ch.41). The Wyoming act deals only with industrial wastes and is primarily aimed at pollutions deleterious to fish life. The South Carolina law requires that all water companies shall have chemical and bacteriological examinations made every three months at their own expense. As a check on these requirements the State Board of Health is authorized to make inspections of water sheds and chemical and bacteriological examinations on its own account. The Kansas and Montana acts are of wider scope. The Kansas law provides that no construction or extension of public waterworks shall be carried out without the approval of the State Board of Health, and that no sewage shall be discharged into any body of water without permission of the board. Public sewer systems discharging sewage at the time of the passage of the act are exempted but no extension may be made without permission. Private sewers in operation at the time of the passage of the act are exempted "unless, in the opinion of the State Board of Health, the discharge of such sewage may become injurious to the public health." Appropriate penalties are provided for violation; but appeal from any order or decision of the board may be made to any district court of the county in which the outlet of the sewer is situated. The Montana law places the general oversight of all inland waters under the State Board of Health, empowers the board to make examinations of such waters and to formulate rules and regulations for the protection of water used for domestic purposes. Plans for water supply, drainage and sewage disposal must be approved by the board. No waste material shall be discharged into any source of water without purification satisfactory to the board. Appeals may be made to the District Court. The law



authorizes the establishment of an experiment station for the study of water supply and sewage disposal problems and requires the submission by the board of a biennial report to the Legislature. The Ohio stream pollution law passed in 1908 is in some respects the most advanced yet enacted and should serve as a model for other states. It provides that whenever the State Board of Health finds that a source of water supply is rendered impure by the discharge of sewage or other wastes, or whenever it finds that such wastes have so polluted any body of water as to produce conditions detrimental to health or comfort, it may order the installation of adequate sewage purification works. Similar powers are conferred upon the board in regard to the ordering of any changes necessary to insure the purity of public water supplies. Furthermore the board is given power to enforce such operation of water and sewage purification plants after construction as shall secure satisfactory results. This feature of the act is particularly notable. The provision for an appeal to three engineer referees instead of to the courts is another excellent innovation. By the legislation of these two years, Kansas, Montana and Ohio are placed with Connecticut, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania and Vermont in the front rank as regards water protection. Besides these important laws minor changes have been made in Massachusetts ('08 ch.539) permitting the summary arrest of bathers in public water supplies, and in New Jersey ('07 ch.28) authorizing a city having a water supply derived from sources outside the city limits to construct a system of sewers for its protection. Progress along the line of the protection of interstate streams by joint agreement is marked by the resolution of the Ohio Legislature ('08 p.637), creating a commission to confer with similar commissions from Pennsylvania, West Virginia, Indiana and Kentucky in regard to the pollution of the Ohio river.

**Buildings: sanitation and safety.** A number of important laws were enacted in 1907 and 1908 in relation to building construction and the general condition of factories, hotels and tenements. In Arkansas ('07 ch.352) cities of the first class are given the power to regulate the building of houses and to require their removal. In New Jersey the power is given to villages to control the "construction, erection of buildings of every kind," ('08 ch.64); and similar powers in cities are specifically conferred upon the Board of Public Works instead of the city council ('08 ch.68). In Ohio municipal corporations are given the power to regulate "the use, control, re-

pair and maintenance of buildings used for human occupancy and habitation" ('08 p.124). By another act ('08 p.232) the chief inspector of factories and workshops is directed to inspect schoolhouses, colleges, halls, theaters, churches etc. in regard to the precautions taken against fire, and provision is made for the introduction of fire drills in schools. In Massachusetts ('07 ch.550) a new law replaces the old statute regulating building construction in the city of Boston ('92 ch.419). It occupies 58 closely printed pages and ordains minute details in regard to general construction, strength of materials, height, foundations, construction of walls and floors, fire protection and elevators in business buildings; arrangement of stairs and public halls, light and ventilation, size of rooms and sanitary conveniences in tenements; construction and fire protection in theaters and other places of public assembly; and general plumbing regulations.

In Massachusetts, also, an improvement in the law in regard to factories was made by including good lighting among the legal requirements ('07 ch.503) and a step of great importance was taken in the transfer of the duties of factory inspection in regard to sanitation from the district police to district medical inspectors appointed by the Board of Health ('07 ch.537). This act creates the first body of expert sanitary inspectors of factories in the United States, so far as the reviewer is aware.

Among the acts relating to fire protection the most important is a Rhode Island law ('08 ch.1536), which deals with theaters, halls, churches and schoolhouses and provides for doors opening outward, attendants to see that fire escapes are accessible, indication of fire escapes by signs and by red lights, ventilators, fireproof curtains, automatic sprinklers on the stage, and fire alarm and police call boxes. Oklahoma ('08 ch.38 art.1) requires fire escapes on public buildings, schools, halls, hotels and lodging houses and Texas ('07 ch.80) provides for fire escapes on hotels and lodging houses.

General regulations in regard to the construction and management of hotels are embodied in the legislation of several western states. North Dakota ('07 ch.135) and South Dakota ('07 ch.165) have enacted closely similar regulations. Both laws prescribe the arrangement of fire escapes and fire extinguishers, regulate the construction of elevators, require proper sanitary arrangements and provide for the appointment of inspectors and for the payment of a fee by each hotel inspected. In North Dakota the inspector receives a salary of \$1800 and fees are turned over to the state; in South



Dakota the inspector receives the fees. The North Dakota law has a special provision requiring the supply of pure water to the guests of the hotel. A similar law passed in Oklahoma ('08 ch.43 art.1), in addition to regulations governing fire protection and general sanitation, contains several unusual provisions. Sheets on all beds must be of "sufficient width and length to reach the entire length of the bed and with three feet extra to cover the upper or head end, which shall be lapped back or over any other covering thereon, in such form or manner as to prevent the inhaling of any bacteria or other thing dangerous to the lungs or throat that may be contained in or about the upper or head ends of any comforters, covers, quilt" etc. Clean individual towels must be provided, sheets and pillow slips must be changed when a new guest occupies a room and bedding and bed clothing must be disinfected once in three months.

An important decision in regard to tenement houses was handed down by the Supreme Court of Wisconsin in regard to an elaborate tenement house law passed by the Legislature of 1907 ('07 ch.269). The original act embodied minutely detailed provisions somewhat like those included in the Massachusetts law for the city of Boston ('07 ch.550), to which reference has been made above. Instead, however, of referring to a single city the Wisconsin law applied to the whole state. The court decided June 5, 1908 (*Bonnett v. Vallier*, 116 N. W. 885) that the law was unconstitutional since its provisions as applied to the whole state were so unduly exacting as to exceed a proper exercise of legitimate police power.

**Explosives.** Laws in several states provide for the labeling and proper handling of explosives. The most elaborate enactment of this kind was passed in Ohio ('08 p.211). It requires the registration of all parties concerned in the manufacture or handling of explosives with the factory inspection department and the filing of detailed information in regard to the conduct of the business. Inspection is provided for and the storage and transportation of explosives is carefully guarded. In Iowa ('07 ch.185) and Minnesota ('07 ch.28) the sale of toy pistols, dynamite caps and giant fire-crackers is prohibited and New Hampshire ('07 ch.87) forbids the sale of giant crackers and cane or potash dextrin tablets.

**Miscellaneous.** Important laws in regard to boilers were enacted in Massachusetts and Maine. The Massachusetts law ('07 ch.465) establishes a Board of Boiler Rules and fixes rigid conditions of boiler inspection. The Maine law ('07 ch.82) requires the licensing of persons in charge of steam plants for heating



schools, churches and other public buildings. The distribution of samples of drugs was prohibited by special statute during 1907 in seven states, Indiana ('07 ch.134), Iowa ('07 182), Maine ('07 ch.189), Massachusetts ('07 ch.180), Michigan ('07 ch.148), Pennsylvania ('07 ch.142) and Vermont ('06 ch.186).

**General review of the period.** On the whole the progress attained in the sanitary legislation of 1907 and 1908 is notably encouraging. The most important achievements were undoubtedly the organization of effective state boards of health in Idaho, Montana, New Jersey, Oklahoma, South Carolina and Virginia; and the introduction of adequate systems of vital statistics in California, Colorado, Minnesota, Montana, North Dakota, Washington, Wisconsin and Wyoming. The appointment of district medical inspectors in charge of the work of expert sanitary factory supervision in Massachusetts marks a long step forward. The antituberculosis movement has been greatly strengthened, particularly by the construction of sanatoriums in Alabama, Georgia, Indiana, Maine, Massachusetts, North Carolina and Pennsylvania. In regard to the protection of water supplies and natural streams the new laws in Kansas, Montana and Ohio are noteworthy advances.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 391

**FOOD ADULTERATION**

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During the years under consideration material changes were made in the laws regulating the manufacture and sale of foods and drugs, by the majority of the states whose Legislatures were in regular session. The Alabama Legislature also convened in special session and enacted a new law. The amount of new legislation and the extent of the change in the laws already existing has been so great that their detailed consideration would be somewhat tedious.

Among the chief tendencies as shown in this legislation are: (1) a tendency to prohibit or restrict the preservation and sale of food that is decayed, that is made under insanitary conditions or environment or from material which is decayed, wormy or otherwise unfit for food; (2) a tendency to prohibit or restrict the use of chemical food preservatives, with the exception of one or two specified preservatives whose use under specified conditions is permitted in many of the laws passed during this period; (3) a tendency to adopt further safeguards against the sale of dangerous drugs.

A model sanitary bill recommended by a committee of the Association of National and State Dairy and Food Departments has been adopted in many of the states and its effect on the character of the places used for the manufacture and sale of foods has been advantageous. Practically all of the laws now forbid the manufacture of foods from filthy, decomposed or putrid animal or vegetable matter or from animals that were diseased, that have died otherwise than by slaughter or that for any reason are unfit for food.

Legislation looking to the same end has been enacted regarding special products. For instance, Connecticut ('07 ch.143), New Hampshire ('07 ch.75), New York ('07 ch.610), Pennsylvania ('07 ch.186) and Vermont ('06 ch.137) have enacted sanitary provisions for the sale and transportation of milk, forbidding its pollution and requiring that receptacles shall be thoroughly cleansed before they are used. Usually it is required that the purchaser of the milk cleanse the receptacles before returning them to the shipper.

The federal government (Food Inspection Decision 100) and many of the states have issued rulings declaring the sale of bleached flour to be in violation of the law and (Food Inspection Decision 110) forbidding the shipment and sale of oysters grown in or treated with polluted water, soaked in water in such a manner as to inflate them and increase their water content, prepared in insanitary surroundings or shipped in unclean receptacles.

Considerable attention has been given to the question of cold storage, with a view to defining the condition of food at time of storage and the length of time which it is permitted to be stored. The proper condition for the sale of poultry has also been discussed in many states and the sale of undrawn poultry forbidden by the state of Kansas ('07 ch.187).

In the enforcement of the state laws and particularly of the national law attention has been given to the sanitary condition of bottled waters and of milk. Several prosecutions for the sale of contaminated mineral water have resulted in a generally improved condition in that respect.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39j

**AGRICULTURE (general)**

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The laws, amendments and revisions passed in 1907 and 1908 bearing more or less directly upon agriculture are comparatively numerous and concern various phases of agricultural endeavors, particularly the state departments of agriculture, the collection of agricultural statistics, agricultural societies and fairs, farmers institutes and other similar forms of agricultural education, and the destruction of weeds, together with the prevention of their dissemination. Such legislation was enacted in 37 states and territories and in a number of instances state departments of agriculture were organized or established for the first time. The enactments in general show a growing tendency to bring organized agriculture as well as agricultural information nearer to the farmer, and for the states to supplement federal aid in this same direction.

**State departments.** As in previous years much of the legislation enacted regarding state departments of agriculture relates largely to appropriations, allotments and use of funds, accounting, salaries and expense allowances. Alabama ('07 p.751) appropriated \$4000 annually from the proceeds of the fertilizer tag tax for the use of the Department of Agriculture and Industries in analyzing fertilizers, holding farmers institutes, and executing laws, and further ('07 p.642) made the professor of agricultural chemistry at the Agricultural and Mechanical College official chemist of the department. Colorado ('07 ch.222) has defined in detail some of the duties of the State Board of Agriculture and has outlined fully the methods of doing business, and keeping its accounts. Appropriations for the State Agricultural College and the Agricultural Experiment Station ('07 ch.76), amounting to \$45,000 for 1907 and 1908, were made as follows: \$6000 for investigations in animal industries to further the beef, pork, mutton, wool and horse production of the state; \$4000 for the im-

provement of grains, grasses and root crops; \$2000 for buildings needed in connection with the work on grains etc.; \$10,000 for farmers institutes and other college extension work; \$2000 for testing farm machinery and for experimenting with road-building machinery and road materials; \$3000 for investigations to further the fruit industry of the state; \$7500 for purchasing lands and water rights for the Agricultural College; and \$5000 for the continuance of the coöperative breeding experiment by the Colorado State Experiment Station and the United States Department of Agriculture, provided this last mentioned institution appropriates \$10,000 for the same purpose.

The Kansas Legislature ('07 ch.389) enacted a law authorizing the Board of Regents of the State Agricultural College to import seed of wheat especially adapted to and desirable for sowing in Kansas, and appropriating \$2500 for the purpose. In Michigan ('07 ch.266) the act extending aid to the State Agricultural College has been amended to the effect that the proceeds from the assessment of one tenth of a mill for the support of the Agricultural College and the Upper Peninsula Experiment Station are now to be entirely devoted to these institutions and that \$26,000 out of the money secured through this assessment shall be expended under the direction of the State Board of Agriculture for the purpose of improving, experimenting with and exhibiting live stock and poultry and for studying the soils of the state.

An act providing for the continuation of the geological, topographical and agricultural survey of the state in coöperation with the United States Geological Survey was passed by the Kentucky Legislature ('08 ch.63). This law mentions especially that the soils of the state shall be studied with reference to their conservation, improvement and fitness for certain crops, that the availability and best uses of road materials shall be determined, and that the mines, gases and coal dusts shall be investigated with a view toward ascertaining the requirements for the safe working of the mines of the state. Maryland ('08 ch.161) created a board of trustees of the Maryland Agricultural College ex officio the State Board of Agriculture. Mississippi ('08 ch.103) established county departments of agriculture to disseminate agricultural information and to develop the agricultural resources of the counties of this state. According to a revision by the Legislature of Ohio, the State Board of Agriculture is to consist of 10 members appointed by the Governor and the Senate and of those first appointed two each are to hold office respectively for 1, 2, 3, 4 and 5 years from



February 1, 1908, and thereafter the Governor is to appoint two members each year. The State Board of Agriculture created in Oklahoma ('08 ch.3) consists of a president elected at a general election for four years and of 10 other members elected at the annual institute for five years. The Board of Agriculture is made the Board of Regents for all agricultural and mechanical colleges and is given jurisdiction over all matters affecting agricultural interests, including the animal quarantine regulations and the enforcement of the dairy and pure food laws of Oklahoma. Virginia ('08 ch.80) passed an amendment placing the Department of Agriculture and Immigration under the Board of Agriculture composed of one member, a practical farmer, from each congressional district, appointed by the Governor for four years and confirmed by the Senate. The law provides that not more than two thirds of the number of members shall belong to one political party at any one time, and the president of the Virginia College of Agriculture and Polytechnic Institute shall be ex officio a member of the Board. Louisiana ('08 ch.162) passed an act authorizing the Commissioner of Agriculture and Immigration to appoint a farmers institute conductor, and North Carolina ('07 ch.497) provides in an amendment that the Commissioner of Agriculture and the members of the Board of Agriculture are to be practical farmers engaged in their profession. A State Board of Agriculture consisting of five members was created by the Legislature of South Dakota ('07 ch.76) with the principal duty of holding an annual state fair. Texas ('07 ch.59) created the office of Commissioner of Agriculture and defined the duties of the incumbent as working for the improvement of Texas agriculture in general.

**Farmers institutes.** The Legislature of California ('07 ch.136) authorizes the Board of Regents of the State University to hold farmers institutes and appropriated for this purpose \$12,000 for the years 1907 and 1908. In Indiana farmers institutes are encouraged by a law ('07 ch.117), which defines under what conditions \$100 may be drawn from the county treasury for the benefit of this work. A Wisconsin law ('07 ch.66) provides that copies of the farmers institute bulletins issued be placed in the public schools. Through an amendment this state ('07 ch.318) provides for the holding of farmers institutes and that for this purpose not more than \$20,000 per annum be expended. In Wyoming ('07 ch.77) an act was passed giving the county commissioners the authority to appropriate \$100 for holding farmers institutes in coöperation with the State University.



**Agricultural statistics.** The Commissioner of Agriculture and Industries of Alabama ('07 p.587) is empowered to appoint upon approval of the Governor soil surveyors to survey, analyze and classify the soils of the state. These surveyors are to report the results of their work to the Commissioner of Agriculture, and to attend farmers institutes and agricultural meetings to spread the information they have secured. An annual appropriation was made to carry on the work. In the same state a law was enacted ('07 p.741) which provides for the establishment of a Bureau of Cotton Statistics under the Department of Agriculture and Industries. The director of this bureau is to be appointed by the Governor at a salary of \$1500 per annum, and his duties are the preparation of a list of all cotton ginnermen and public warehousemen of the state, to be used in the collection and publication of statistics of the cotton ginned and warehoused within the state. Individuals, firms and corporations in this line of business are bound by this law to furnish accurate data with reference to the cotton and cotton products they handle. In order that accurate statistics of leaf tobacco may be secured the General Assembly of Virginia has passed an act ('08 ch.320) requiring the proprietors of leaf tobacco warehouses, associations of tobacco producers, and dealers purchasing directly from producers, where there is no auction market, to keep a correct account of leaf tobacco sold and to report the same to the Commissioner of Agriculture at Richmond, where the data are to be compiled and published in a bulletin issued by the Commissioner of Agriculture.

By law approved March 7, 1907, North Dakota ('07 ch.272) abolished its State Weather Bureau. A law was also enacted ('07 ch.111) requiring elevators and warehouses to report to the Commissioner of Agriculture and Labor, on blanks furnished by him, the amount and kind of grain bought and shipped during the year. By means of an amended statute ('07 ch.38) Wisconsin increases the number of farm products on which statistics are collected and provides for the tabulation and publication of such statistics in the annual report of the Board of Agriculture.

The night-rider troubles induced Indiana and Ohio to pass laws for the protection of tobacco growers. Indiana ('08 ch.6) puts a fine of not less than \$25 nor more than \$500 and imprisonment in the county jail for not more than six months upon a violation of this act, that is the destruction of or injury to tobacco or the interference with growing and marketing it, and Ohio ('08 p.526) for the same offense, imprisonment in the county jail not more than

six months or in the penitentiary not more than five years or less than one year. Ohio ('08 p.527) further authorizes its Adjutant General to appoint secret service officers for the protection of tobacco growers and appropriates \$10,000 to maintain this service.

**Associations and fairs.** The General Assembly of Ohio ('08 p.249) passed an amendment providing for a tax levy of 1/10 of one mill for the purpose of encouraging county agricultural fairs. The amount of money authorized to be paid out in anticipation of this levy is limited to \$1000. An amendment to the agricultural law of New York ('08 ch.283) deems associations receiving money from the state for premiums and agricultural fairs as agents for the state in disbursing such moneys and appropriates not less than \$250,000 for their reimbursement. Illinois has amended its law ('07 p.10), to the effect that county fairs or agricultural societies are to be allowed 40% of the total amount of premiums paid at their annual fair for the current year for exhibitions of horticulture, agriculture, poultry, live stock and domestic and mechanical arts, and providing that the sums paid out to any one county fair or agricultural society do not exceed \$1700 in any one year. An annual appropriation of \$60,000 is made to carry out the provisions of the act. Indiana ('08 ch.264) has provided by law for the incorporation of a State Corn Growers' Association, a State Live Stock Breeders' Association, and a State Dairymen's Association, and has appropriated for the use of each one of these associations \$500 annually for use in securing speakers for the annual and auxiliary meetings and other expenses incident thereto, together with publishing an annual report and the distribution of same.

The General Assembly of the state of Iowa passed an amendment ('07 ch.17), by which it authorizes the county boards of supervisors to purchase under certain conditions real estate for county fair purposes, in sums exceeding \$1000. The Legislature of Maine revised its statutes ('07 ch.45) relating to agricultural societies, to the effect that a sum of money not exceeding two cents to each inhabitant of the state shall be appropriated annually from the State Treasury for the use of legally incorporated agricultural societies not provided for by special enactment. The distribution of these moneys is to be made according to the amount of premiums and gratuities actually paid in full on exhibition stocks and products with the provision that each society shall enforce the prohibitory liquor law and proscribe gambling in any form on all grounds over which it has control.



By a revision of the laws of Missouri ('07 p.208) the county court of any county is authorized to appropriate a sum not exceeding \$100 in any one year for the benefit of societies for the advancement of agriculture if such money is to be used for premiums or expended for the purchase of premiums. An act passed by South Dakota ('07 ch.107) provides that county agricultural fair corporations shall receive from the county in which such exhibition is held a sum of money equal to 40% of the premiums paid for exhibits, and that the amount so paid shall not exceed \$400 in any one year. It is further provided that such corporations shall not pay in any one year more than \$400 for exhibitions of trials of speed. Other express conditions of this law were that the total receipts of such agricultural fair corporation must be at least \$200 in the year for which such aid is given and that the sale of intoxicating liquors and gambling and gambling devices be excluded from the grounds under its control.

Wisconsin ('07 ch.410) also created a section of the statutes making an annual appropriation of \$300 to the Wisconsin Tobacco Growers and Dealers' Association, and through the enactment of another section ('07 ch.461) an annual appropriation of \$600 to the Wisconsin Butter Makers' Association. A revision of the Wisconsin laws ('07 ch.408) entitles the State Horticultural Society to receive \$8000 annually from the State Treasury, one-half of which is to be devoted to the maintenance of trial orchards and for work of a similar nature. Connecticut ('07 ch.229) passed an act by which the Connecticut Poultrymens' Association may receive \$1000 per year provided such sums are needed for the payment of expenses incurred in advancing the poultry interests of the state by the dissemination of knowledge relating thereto, by institutes or bulletins.

Missouri ('07 p.64) created a board of poultry under the name of Missouri State Poultry Association. The officers of this board are president, vice president, secretary and treasurer, and all appropriations for the purpose of aiding and advancing the poultry interests of the state are to be made to the State Poultry Board and the law further provides that the public printer under the direction of the president of the board is to print not to exceed 5000 copies of the report of the state board, limited to 500 pages. A State Poultry Association was also established in North Dakota ('08 ch.184). New York ('08 ch.18) has appropriated \$220,000 for the construction of a manufactures and liberal arts building on the state fair grounds at Syracuse.



Arizona passed an act ('07 ch.86) establishing the Arizona territorial fair, and appropriating \$15,000 annually for the purpose of carrying out the provisions of the act. The Indiana Legislature ('07 ch.27) has empowered the State Board of Agriculture to erect and equip a live stock show pavilion at an expense not to exceed \$100,000, and to issue and sell bonds providing the necessary funds. Minnesota ('07 ch.99) has authorized the counties of the state having not less than 40% of uncultivated land, to appropriate money for the purpose of maintaining an exhibit at the state fair, this sum not to exceed \$500 annually. Montana ('07 ch.165) authorized the board of county commissioners to appropriate each year \$1000 for maintaining a county exhibit at the state fair.

Nebraska appropriated \$20,000 for the construction of a sanitary cattle barn on the State Fair grounds ('07 ch.177). Vermont ('06 ch. 220) passed an act for the appointment of a State Fair Commission consisting of 17 members, including the Governor and the secretary of the Board of Agriculture.

**Miscellaneous.** Iowa ('07 ch.105), Oregon ('07 ch.168), Washington ('07 ch.34), Washington ('07 ch.84), Oklahoma ('08 ch.3), Wisconsin ('07 ch.65), California ('07 ch.476), Indiana ('07 ch.32), Wisconsin ('07 ch.191) enacted legislation with reference to the destruction of weeds.

The matter of naming farms is regulated in Missouri by a law ('07 p.274) requiring the registration of the name by the county clerk, and the use of a name not already recorded for another farm in the same county.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39k

EXPERIMENT STATIONS AND INSPECTION

W. H. BEAL, OFFICE OF EXPERIMENT STATIONS, UNITED STATES  
DEPARTMENT OF AGRICULTURE

**Experiment stations.** Little federal legislation affecting the experiment stations was enacted during 1907 and 1908 except the general appropriation acts of the United States Department of Agriculture, which increased the funds for the maintenance of the agricultural experiment stations in Alaska, Hawaii and Porto Rico under the direct management of the department, and provided as usual for the supervision of the expenditure of the Hatch and Adams funds appropriated to the state experiment stations and for coöperation between the Department of Agriculture and the experiment stations in certain lines of work common to both. There were, however, a number of pieces of state legislation increasing the endowment, improving the equipment and providing for special lines of work of the experiment stations.

For example, the Arizona station ('07 ch.30) was given \$5600 for the printing of its bulletins and for the maintenance of experiments with date palms at Tempe and Yuma. The California station ('07 ch.153, 175) was given \$1000 for investigating the feasibility of tobacco culture in that state and \$10,000 for investigations with a view to the improvement of methods of cereal culture. The Colorado Agricultural College ('07 ch.221) was given authority to use 10% of the proceeds of the land grant funds for the purchase of experimental farms. The Delaware Legislature ('07 ch.50) appropriated \$20,000 for the purchase of a farm for the use of the agricultural college and the experiment station, thus supplying a long-felt need of these institutions.

The movement in the direction of extending the experimental work of the stations throughout the states in which they are located was evidenced by the action of a number of state Legislatures providing for the establishment of local experimental farms. The Kansas Legislature ('07 ch.142) passed a law giving county commissioners authority to purchase sites for such county experimental farms as may be established by the board of regents of the State



Agricultural College. Missouri ('07 p.206) authorized the county courts to establish and maintain local experimental farms in coöperation with the State Experiment Station. The purpose of these stations is concisely stated in the law to be "to determine and demonstrate the importance of improved seed, of better cultural methods, and to favor the general adoption of better agricultural practice, and to bring the results of the scientific research of the State Experiment Station and of the federal department of agriculture within reach of all the farmers of Missouri." The Montana Legislature ('07 ch.189) appropriated \$2000 for the establishment of a branch experiment station in Fergus county, and also authorized the experiment station ('07 ch.188) to dispose of land which had formerly been acquired at Billings for experimental purposes. Definite provision was made for the management of the experiment farm located at Logan in southern Nevada by act of the state Legislature ('07 ch.27) and \$10,000 was appropriated for the maintenance of the farm for the two years 1907 and 1908. In accepting the benefits of the Adams act the Legislature ('07 ch.209) pledged the state of Nevada to provide for the publication of the results of work done under this act. The North Dakota Legislature ('07 ch.123) appropriated \$7500 to the experiment station for conducting demonstration farms and coöperative experiments with farmers, for making experiments in the manufacture of denatured alcohol, for inspection of fertilizers, stock foods, paints, paris green and formaldehyde, and for publishing reports and bulletins. It also appropriated \$4000 for establishing a substation at Williston mainly for experiments in irrigation and dry farming ('07 ch.122) and \$10,000 for a substation at Langdon for experiments with grasses and forage plants and diversified farming ('07 ch.120). The South Dakota Legislature passed certain acts ('07 ch.229, 230) providing for the selection, control and use of state school lands for experiments in agriculture, but these experimental farms are independent of the State Experiment Station. An act was passed by the Tennessee Legislature ('07 ch.86) appropriating \$40,000 for the establishment of an agricultural and horticultural experiment station and model farm in West Tennessee. The experiments on this farm are to be conducted under the direction of the agricultural department of the University of Tennessee and the superintendent and other employees are to be chosen in the same manner as those connected with the State Experiment Station. The Legislature of Utah ('07 ch.116) appropriated \$5000 for the establishment and maintenance of arid farming experiments in differ-

ent parts of the state, to be conducted under the direction of the State Experiment Station. The Wisconsin Agricultural Experiment Association, the work of which is conducted to a large extent in coöperation with the State Experiment Station, was given \$2000 annually ('07 ch.43) for experiments with new and improved varieties of seeds and plants, fertilizers, methods of cultivation, etc.

Legislative action accepting the terms of the Adams act and designating the beneficiaries under it was taken during the two years by Alabama ('07 ch.475), Arizona ('07 ch.30), Arkansas ('07 p.1265), Colorado ('07 ch.132), Connecticut ('07 spec. act ch.145), Delaware ('07 ch.259), Florida ('07 ch.109), Idaho ('07 p.22), Illinois ('08 p.101), Indiana ('07 ch.300), Kansas ('07 ch.433), Kentucky ('08 ch.11), Maine ('07 ch.39), Minnesota ('07 ch.101), Missouri ('07 p.455), Montana ('07 ch.64), Nebraska ('07 ch.149), Nevada ('07 ch.209), New Mexico ('07 ch.13), North Carolina ('07 ch.793), Ohio ('08 p.634), Oklahoma ('08 p.787), Pennsylvania ('07 ch.153), Tennessee ('07 ch.350), Texas ('07 p.433), Utah ('07 ch.27), Virginia ('08 ch.26), Washington ('07 ch.198), Wisconsin ('07 p.1276) and Wyoming ('07 ch.96).

**Commercial fertilizers.** The extension of the use of commercial fertilizers was evidenced by the enactment during 1907 and 1908 of new laws in Arkansas ('07 ch.398), Kansas ('07 ch.217) and Oregon ('07 ch.10). In Alabama ('07 p.250, 744) the fertilizer law was amended so as to define more strictly the permissible variation from guaranty and the penalty for selling goods which do not agree with the guaranty, as well as the method of securing licenses for the sale of fertilizers in the state. An act was also passed ('07 p.751) setting aside \$4000 of the fertilizer inspection fund for the purpose of holding farmers institutes, conducting experiments, gathering statistics, and doing like work for the betterment of the agriculture of the state, under the direction of the State Department of Agriculture. The State Legislature also passed acts ('07 p.273; '07 ex. sess. p.20) prohibiting the sale of adulterated cotton seed meal as a fertilizer. A joint resolution ('07 p.400) was also adopted providing for a legislative committee to investigate the guano and fertilizer trust. The fertilizer law of Delaware was amended ('07 ch.102), reducing the compensation to be paid the State Chemist. The Florida law was amended ('07 ch.65) to define more clearly the limits of allowable variation in composition and to prohibit the sale of inferior grades of cotton seed meal. The Maine law was amended ('07 ch.13) to give the director of the State Experiment Station increased author-



ity in the prosecution of violations of the law. By an act of the Massachusetts Legislature ('07 ch.289) the State Experiment Station was authorized to include in its reports on fertilizers the cash price and valuation of the fertilizers inspected. The New York law was amended ('07 ch.484) to provide for the publication of analyses and other information relating to fertilizers by the Commissioner of Agriculture. In North Carolina ('07 ch.670) the old law was replaced by a practically new law, essentially the same in principle but improved in clearness of phraseology. The Ohio law was amended ('08 p.343) so as to include more specific requirements regarding the labeling and guaranty. A minor amendment ('07 ch.597) was made in the Tennessee law. The Virginia law was amended ('08 ch.72), explaining in considerable detail the conditions under which persons can deal in fertilizers in the state.

As the above brief review of fertilizer legislation indicates, the tendency has been in the direction of requiring a clearer and stricter definition of the grade of the fertilizers offered for sale and of the quality of the materials used in their preparation.

**Commercial feeding stuffs.** New laws relating to feeding stuffs were enacted during 1907 and 1908 in Indiana ('07 ch.206), Iowa ('07 ch.189), Kansas ('07 ch.407), Minnesota ('07 ch.383), Mississippi ('08 ch.107), North Dakota ('07 ch.197), Pennsylvania ('07 ch.211), South Dakota ('07 ch.153), Tennessee ('07 ch.465), and Virginia ('08 ch.188), and amendments were made in the laws of Florida ('07 ch.66), Kansas ('08 extra sess. ch.75), Ohio '08 p.81), Texas ('07 ch.131) and Wisconsin ('07 ch.104).

An examination of the feeding stuffs legislation for the years 1907 and 1908 reveals little that is especially noteworthy, but the number and character of the new laws as well as the amendments of old laws indicate a disposition to insist upon a strict control of the growing feeding stuffs business.



HORTICULTURE: DISEASES AND PESTS

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There are several general horticultural provisions worthy of special notice. Minnesota ('07 ch.334) appropriates \$16,000 for a fruit breeding farm to be conducted under the control of the State University and subject to visitation by the executive board of the State Horticultural Society, the latter to act in an advisory capacity. Missouri ('07 p.301) creates a State Board of Horticulture with general powers and specially charged with the organization of the fruit growers. A noteworthy appropriation by Pennsylvania ('07 ch.73) of \$80,000 is to be used by the economic zoologist to acquire and disseminate knowledge of both beneficial and obnoxious insects of all kinds and of other enemies. Wisconsin ('07 ch.465) makes it a misdemeanor for dealers in trees or plants or seeds to give incorrect names or otherwise misrepresent their goods. The director of the Agricultural Experiment Station is required to obtain an open market, samples of seeds, test the same and publish his findings annually. California ('07 ch.226), Oregon ('07 ch.57) and Texas ('07 ch.160) have enacted similar legislation in regard to misrepresentation of nursery stock. Washington ('07 ch.162) has reenacted a general horticultural law defining more specifically the duties of the horticultural commissioner. The provision for the appointment of county inspectors and deputy county inspectors by county commissioners is probably unconstitutional since the Supreme Court of Washington has recently held that the attempt to create the appointive office of county fruit inspector ('03 ch.133) is void because the state Constitution specifically provides for the election of county officers. This revised law requires dealers to secure licenses.

**Nursery inspection.** Colorado ('07, ch.191) creates the position of State Entomologist and centralizes in that official most of the powers formerly exercised by county inspectors. The sale of adulterated insecticides, unless the kind and amount of the adulterants or mixtures are conspicuously printed on each package, is prohibited. Idaho ('07 p.448) amends its earlier law ('03 p.348) to

prohibit the general sale of fruit which is or has been infested with specified pests, except that said fruit may be utilized in the manufacture of fruit by-products. Provision is made for the issuance of duplicate certificates entitling the holders thereof to act as agents for the firm or corporation named in the original certificate and prohibiting agents from doing business without such authorization. Stock purchased from without the state from parties not possessing a license must be inspected at the expense of the purchaser. A bond is required from both the state and district horticultural inspectors. Illinois ('07 p.538) amends the law by exempting florists' greenhouse plants and authorizes the State Entomologist to modify or withdraw for cause, nursery certificates. Kansas ('07 ch.386) creates a State Entomological Commission to have charge of nursery inspection and the investigation and suppression of dangerous insects. The professors of entomology at the University of Kansas and the State Agricultural Society are constituted members of the commission, are to report to the commission and by implication are given the title of State Entomologist. Massachusetts ('07 ch.321) gives the State Nursery Inspector the power to designate proscribed insect pests or plant diseases, provides for the condemnation as nuisances, of infested trees and plants upon adjacent property, makes the Secretary of Agriculture the arbiter in the case of appeal and the prosecutor of violators. Penalties are prescribed and the gipsy and brown tail moths exempted. Montana ('07 ch.67) specifically empowers the State Board of Horticulture to quarantine any orchard or fruits infested by injurious diseases or insect pests and makes the violation of such quarantine a misdemeanor. Nebraska ('07 ch.150) creates a state bureau for the investigation, control and extermination of insect pests and plant diseases. The administration of this work is placed in the hands of the State Entomologist and the botanist of the Experiment Station, the latter being made State Botanist. Oregon ('07 ch.58) makes specific provision for the treatment of trees or plants brought in from the infested districts outside the limits of the state. South Dakota ('07 ch.194) requires parties dealing in nursery stock to secure a permit from the Board of Agriculture, to be issued only after inspection by an entomologist. A bond is also required. Agents selling nursery stock are prohibited from doing business without a letter or other written authority. Fees are prescribed for the issuance of permits.

**Special subjects.** The importance of parasites is recognized in California ('07 ch.332) by the appropriation of \$12,000 to be



used for searching out, introducing and distributing beneficial insects. This is only a continuation of earlier efforts by the same state, while a similar undertaking through the coöperation of the general government and the commonwealth of Massachusetts is now in progress in the East.

Idaho ('07 p.24) has enacted a measure designed for the control of crickets, grasshoppers and rodents by levying a special tax for a pest fund to be administered by the county commissioners. The destructive nature of the boll weevil is recognized by South Carolina ('08 ch.488) empowering the State Board of Entomology to promulgate rules and regulations for the exclusion of this pest.

The influence of the gipsy and brown tail moths in New England is shown by Maine ('07 ch.15), declaring the gipsy and brown tail moths public nuisances and making provisions whereby municipal and town officials may be compelled to abate the same; partial reimbursement is made except in the case of the gipsy moth. The Commissioner of Agriculture is further empowered to patrol and guard highways and inspect vehicles thereupon in order to prevent the spread of these pests. A bureau of entomology in the Department of Agriculture is created. Connecticut ('07 ch.114) declares gipsy and brown tail moths to be nuisances and authorizes the State Entomologist to suppress and exterminate the same. Transportation of these insects in any stage is punishable by a fine of not more than \$1000. Massachusetts ('07 ch.521) makes certain amendments to its gipsy and brown tail moth law, the most important being the authorization of the superintendent in an emergency, with the consent of the Governor, to initiate or continue this work within the limits of a city, town, park, cemetery, woodlands or other place of public resort. New Hampshire ('07 ch.147) condemns these insects as public nuisances and authorizes the Governor to employ a state agent to suppress the moths. The right of entry and other powers necessary to the execution of the act are conferred. An appropriation of \$25,000 is made. Rhode Island ('07 ch.1472) appropriates \$10,000 and passes a similar act. Vermont ('07 ch.223) authorizes the Governor to exterminate the San José scale and gipsy and brown tail moths.

**Résumé.** Most of the recent nursery inspection legislation has been directed towards strengthening existing laws. The specific proscription by Legislatures, of dangerous insects and fungous diseases, with sundry attempts to designate treatment by law, is giving way to more general enactments, placing larger discretionary power in the hands of an executive. This latter may be a general



agricultural or horticultural officer, an entomologist or an entomologist and botanist. The determination of the legal requirements is usually directly or indirectly in the hands of an entomologist.

The existing laws recognize for the most part the validity of certificates and in a few instances there is a specific provision for modifying them under special conditions. A considerable number of states require stock coming into the state to be fumigated. A few states, mostly western, exact a bond from nurserymen and dealers in trees. There is a strong sentiment in favor of making the provisions of these laws, so far as they relate to interstate commerce, as uniform in their requirements as practicable.

New England, the South and certain western states have enacted special laws to meet emergencies caused by the presence or threatened invasion of unusually destructive insects. Massachusetts in earlier years attempted extermination, now New England is content with suppression. The special legislation of the Southern States was prompted by the boll weevil and seeks to maintain an effective quarantine against this pest. Grasshopper and similar legislation against general pests must be directed mostly toward suppression and be governed in large measure by local conditions.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 3911

PUBLIC CONTROL OF WATERS

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**Irrigation**

The years 1907 and 1908 showed a continuation of the extension of state control over the use of waters which has been so marked a feature of legislation in the Western States since 1903. Several of the states already having laws controlling waters have made amendments to perfect those laws, while some states have adopted new laws. There is a marked similarity in all these laws, the fundamental features being provisions for the adjudication of existing rights, supervision of the acquirement of new rights, and control of diversions from streams by public officials.

Montana is one of the states which has not adopted a system similar to that of the other states, but for some time the state has been changing its laws in the direction of better control of its waters. All rights to water are adjudicated by the district courts and up to 1907 there was no way of making such an adjudication final, since new rights to a source already adjudicated might be acquired at any time, making a new adjudication necessary. This was remedied in 1907 (ch.185) by providing that parties wishing to acquire rights to water from a source the rights to which had been adjudicated must apply to the district court for the right to divert water. The court is to have the new ditch measured, is to publish notice of the application, hear protests and grant or refuse permission to make the appropriation. Failure to comply with the requirement deprives the appropriator of the right to use any water as against a subsequent appropriator who complies with the law.

Nevada ('07 ch.18) repealed and reenacted its irrigation laws with some changes and additions. The principal changes are in some of the general provisions which do not in any way affect the working of the law. The previously existing law ('03 ch.4) stated

that the unappropriated waters of the state belong to the public, while the new law states that they belong to the state. It has been held in other states that these two statements are synonymous, and therefore the change does not seem to be important (*Farm Investment Co. v. Carpenter* (Wyo.) 61 Pac. 285). It is probable that the idea underlying the change is that under the old law the state dealt with the waters as sovereign, while under the new law it deals with them as proprietor. This, however, is largely an academic question. The old law ('03 ch.4 § 2) provided that the maximum quantity of water which might be diverted for irrigation was 3 acre-feet per acre, while the new law ('07 ch.18 § 4, 5) limits diversions to the quantity necessary, under proper and economical use, for the purpose for which it was appropriated, with a maximum limit of 3 acre-feet per acre. The question of maximum use has not been adjudicated, so far as the writer is aware, but there is a general belief that such restrictions will be held void if the water user can prove that he needs more than the maximum quantity allowed. One change in procedure provided for by the new law ('07 ch.18 §4) may be interesting. Under the old law ('05 ch.46 § 28) a party wishing to change the place of diversion or use might do so on approval of an application by the State Engineer after publication of notice and a hearing if objection was made. The new law places the application for transfer on exactly the same basis as an application for a new right so far as relates to procedure. Priority is not lost by transfer.

New Mexico created the office of Territorial Engineer in 1905 (ch.102) and created also a board of control composed of six members, similar to that of Wyoming, for the purpose of adjudicating rights to water, the purpose being to provide a complete adjudication of all rights in the territory. This law, however, did not provide for any public supervision of the acquirement of new rights, so that such an adjudication would have been complete for only a short time because new rights would come into existence from time to time without being defined. The law of 1907 (ch.49) changed the system of adjudication and added provisions for the acquirement of new rights under public supervision. Under the law of 1907 the board of control is done away with and adjudications are to be made by the courts. The engineer is to make surveys and collect information necessary for an adjudication, beginning with the streams most used for irrigation, and when he has completed such survey for any source of supply he is to submit the results to the Attorney General



of the territory who is to bring suit in the name of the territory for the defining of all rights to water from that source. Whenever any suit for adjudication is begun by interested parties the court is to call on the Territorial Engineer to make surveys. It is usually contended, outside of Wyoming and Nebraska, that adjudication is a judicial matter and can not be assigned to administrative offices as was done by the law of 1905. The law of 1907, in common with the laws of several of the arid states, attempts to secure the same results by having suits brought by the Attorney General of the territory, but this procedure has been held unconstitutional in Idaho, the only state in which it has been brought into question in a court of last resort (*Bear Lake County v. Budge*, 75 Pac. 615), while South Dakota has repealed a similar provision. If the Idaho decision is followed in the other states and territories the very foundation for complete public control must be lacking as there is no way in which a complete adjudication of all rights can be forced, and so long as existing rights are indefinite all new rights to water from the same sources must of necessity be equally indefinite. The law of 1907 adds provisions for the acquirement of rights, the procedure being similar to that of most of the arid states. The party wishing to acquire a right must apply to the Territorial Engineer who must order publication of notice of the application and hold a hearing if protest is made. He may reject an application on the ground that there is no unappropriated water in the source of supply or that the proposed appropriation is "contrary to the public interest." He is to inspect the works at the time set for completion and issue a certificate of completion and inspect the lands at the time set for the application of water to a beneficial use, and if the conditions of the permit have been complied with, issue a license to appropriate water. Water rights are made appurtenant to specified lands but may be transferred to other lands on the approval of an application by the Territorial Engineer after publication of notice, etc.

South Dakota also repealed and reenacted its irrigation law in 1907. Two changes were important as they relate to fundamental questions. The law of 1905 (ch. 132) contained a provision for the adjudication of rights similar to that adopted in New Mexico in 1907 discussed in the last paragraph. The law of 1907 abandons the attempt made in the 1905 law to provide for forcing adjudication. The State Engineer is to make surveys and collect data as heretofore and is to file the results with the Attorney General but the latter is not to bring suits. Whenever a suit concerning water rights is

brought the complainant is to file a copy of the complaint with the State Engineer and if the engineer considers the suit of sufficient importance he is to notify the Attorney General who is to intervene on behalf of the state. If suit is brought on a stream which has not been surveyed by the engineer the court is to direct him to make surveys for the use of the court in defining rights. The provision of the New Mexico law of 1907 and the South Dakota law of 1905, which is now abandoned, was fathered by the United States Reclamation Service in an attempt to secure the benefits of an administrative adjudication, such as is had in Wyoming, Nebraska, and Nevada, in states where it was held that adjudications could be made only by the courts. So far it has entirely failed of its purpose. As already pointed out it was declared unconstitutional in Idaho and has been abandoned in South Dakota. The other important change in the South Dakota law referred to relates to the transfer of water rights. There was a very strong prejudice a few years ago against the transfer of rights from one tract of land to another, on the ground that such transfers would allow of the ownership of water apart from land and in this way permit monopoly of the water supply and the exploitation of the landowner by the water owner. This led to the enactment of laws making water rights appurtenant to specified tracts of land, but the manifest advantages of allowing the transfer of rights from inferior lands to better lands or to lands on which it can be used to better advantage has led to a modification of these laws by providing that rights may be transferred under much the same supervision as the acquirement of new rights. South Dakota adopted this provision in common with other states, and like the other states provided for the total severance of the right from the land on which it was originally used and its transfer entire to the new location. The clause covering this in the 1905 law is as follows (ch.132 § 47):

Provided, that if for any reason it should at any time become impracticable to beneficially or economically use water for the irrigation of any land to which the right of use of the same is appurtenant, such right may be severed from said land, and simultaneously transferred and become appurtenant to other land without losing priority of right theretofore established, if such change can be made without detriment to existing rights.

The amendment to this section adopted in 1907 (ch.180 § 48) is fundamentally different and from an economic standpoint is a distinct advance. It will be noted that the 1905 law provides that the



transfer may be made if it becomes impracticable to "use water" on the land, while the 1907 law provides that "if for any reason it shall at any time become impracticable to use *all or any part of said water* beneficially or economically for the irrigation of any land to which the right of use of the same is appurtenant, *all or any part of said right* may be severed from said land and simultaneously transferred to other lands," etc. Under the new law if the water user can by economy and care mature his crops on the land in connection with which the right was acquired with less water than was allotted to him he may transfer the water saved to other land, in that way benefiting himself and at the same time benefiting the public, since the water supply, which is limited, has been made to serve a larger area than would otherwise have been served. Under the old law, on the other hand, there is no incentive to economical use, since the use of water on the old land must be abandoned and the right transferred entire to an equal area of new land. The procedure for securing a permit to transfer a right was not changed.

The state of Utah received from the general government a grant of 500,000 acres for the establishment of reservoirs for irrigation purposes. Under a law of 1901 (ch.59) the state has been using the proceeds from the sale of these lands for the construction of reservoirs. In 1907 (ch.13) the State Board of Land Commissioners was authorized to loan these funds to corporations or associations for the purpose of reservoir construction instead of using them for construction carried on by the board itself. Interest is not to exceed 5 per cent; loans are to be secured by first mortgage on improved real estate or established water rights; are not to exceed 40 per cent of the cash value of the securities; are to be repaid in 10 annual instalments beginning after the completion of the works for the construction of which the loan is made.

The general irrigation laws of Utah were amended in several details. One important change was made in the fees to be collected by the State Engineer for examining and filing papers. The old law provided a flat rate for all applications ('05 ch.108) and under the decision of the Utah courts the engineer has no authority to reject applications. There was, therefore, no limitation on the quantity of water which might be filed on by an applicant for permit to appropriate water. This was changed in 1907 (ch.156) by making the filing fee depend on the quantity of water applied for, the fee being \$2.50 for any quantity up to 10 cubic feet per second, and \$1 for each cubic foot per second above 10. One dollar per cubic foot per



second is not a burdensome fee for a legitimate enterprise but it will be a check upon extravagant claims such as were sometimes filed under the old law.

The state of Washington has adopted the provision, which is common to most of the arid states, for allowing the owner of stored water to use the natural streams for conveying such water to the place of use ('07 ch.144). Since the state has no officials for controlling diversion from streams the courts are empowered, on application from the owner of stored water, to appoint a commissioner to see that the water turned into a stream is protected from diversion by others than those entitled to it.

Wyoming in 1907 made quite an extensive revision of its irrigation laws but most of the changes made referred to details of administration. The water commissioners of the state who had been restricted to the regulation of diversions from streams were empowered (ch.86 § 7) to distribute water to users from partnership ditches, where rights had been adjudicated.

Colorado amended its irrigation district law in a number of details, the only change of general interest being one relating to the qualifications of electors of a district. Under the law of 1905 (ch.113) nonresident property owners were entirely excluded from voting on district affairs, while under the law of 1907 (ch.194) the franchise is extended to parties who "are the owners of lands to the extent of 40 acres or more within said district and reside within any county into which any part of said district shall extend, and who are qualified electors under the general laws of the state therein, and who shall have paid property taxes upon property located within said district during the year previous to any such election."

Idaho revised its irrigation district law in 1907 (p.484) but no important changes were made in the general plan of the law except that entrymen on public or state lands are made eligible to sign petitions for the formation of districts and to vote on their organization.

Montana adopted a new irrigation district law in 1907 (ch.70). The distinctive feature of this law when compared with others is the fact that the nonresident property owner is given as much voice in district affairs as the resident. In some states one of the principal reasons for the creation of irrigation districts is to compel the nonresident to improve his property or at least contribute to the cost of building irrigation works which will make his property

valuable. The Montana law gives the nonresident full protection as follows:

Any taxpayer holding title or evidence of title, or any duly authorized and qualified guardian, executor, or administrator of an estate, or the duly authorized agent of any corporation or company owning land within any irrigation district, shall be deemed qualified to sign any document or petition, or to vote at any election authorized under this act, if not otherwise disqualified under the laws or Constitution of the State.

The petition for the organization of an irrigation district must be signed by a "majority in number of the holders of title, or evidence of title," and must represent "a majority in acreage of said lands." In all elections and votes on bond issues "each elector shall be permitted to cast one vote for each 40 acres of irrigable land or major fraction thereof owned by such elector in the division where his ballot is cast, but any elector owning less than 20 acres shall be entitled to cast one vote." The organization of a district requires a two thirds favorable vote, while the issue of bonds requires a majority vote. The bonds and annual charges are apportioned on the lands "according to the value of such tract for irrigation, irrespective of improvements, and such valuation for irrigation shall be fixed according to the increased value of such tract by reason of such irrigation as compared with other irrigated lands in the district."

Wyoming also adopted an irrigation district law in 1907 (ch.72). This law is along the general lines of the district laws of the other states. Like the Montana law it allows nonresident property owners to vote on district matters, the provisions covering that matter being as follows:

At said election and all elections held under the provisions of this act, all persons who are both freeholders and also qualified electors within said proposed district and who have paid a property tax in said proposed district during the year next preceding such election shall be entitled to vote, and none others.

"Qualified electors" is defined as follows:

For the purpose of this act the words "qualified elector or electors" shall be understood to be a citizen of the United States, or who may have declared his or her intention to become such, and that any person so qualified shall have power to do and perform any and all things requisite and necessary for the purpose of his act, the same as if he or she were a bona fide resident of said district.



The petition for the creation of a district must be signed by a majority of the freeholders owning land in the proposed district, who must also be owners of a majority of the whole number of acres of land. A majority vote will carry the organization of the district and bond issues. Bonds may not be sold for less than 95% of their face value but if no satisfactory bids are received for bonds they may be issued in payment for works. For payment of bonds and interest the lands are taxed at a flat rate per acre but the costs of maintenance and operation may be met by charging tolls for water used, by assessments on the land, or both. The county treasurer is ex officio treasurer of districts.

The provision in the Montana and Wyoming laws for the representation of nonresident property owners is an advance over other laws as it has been stated often that the district law is designed especially to exploit the nonresident. This has led to attacks upon the legality of the organization of districts and to opposition at every possible point by property owners who were opposed to the organization of districts which included their property; and in the past this has done much to detract from the salability of district bonds. The allowing of votes to nonresident property owners may make it more difficult to secure the organization of districts but it will make the sale of their bonds when organized much easier.

In all of the states the limitation on the price at which bonds may be sold is a dead letter because of the fact that they may be issued in payment for works. It is customary to arrange with some contractor for the building of the proposed works or for the purchase of works already built on the basis of payment in bonds and the price is fixed accordingly. A recent newspaper report states that the bonds of a certain district in a state where bonds may not be sold below 95 were taken by the contractor at 37 cents. In other words the people of that district are paying nearly three prices for their work.

As a whole the legislation relative to irrigation enacted in the years 1907 and 1908 has been an advance over previous legislation and marks a larger public control over the use of water.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 3911

**LAND DRAINAGE**

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Laws relative to land drainage were enacted in 26 different states by the Legislatures which were in session during the years 1907 and 1908.

Indiana replaced its existing laws by three separate acts which provide for the organization of drainage districts, the organization of levee districts, and the cleaning and repair of drainage districts. Nebraska provided for the reclamation of overflow lands by enacting a new levee law and perfecting the old drainage law by amendments. Kansas, South Dakota, Oklahoma and Texas codified and enacted new laws to replace existing laws. The tendency of drainage legislation in the other states was to simplify and perfect existing laws and cover special features which had not been foreseen in the original acts. The trend of all legislation for these years as in 1906 is to give drainage organizations more authority both in construction and maintenance, and to simplify the legal proceedings. The technic of much of the drainage legislation is the same, special laws and amendments being necessary to provide for the carrying out of drainage improvements by county and state organizations in conforming with other existing laws. An outline of the Oklahoma law is given as a general example of the newer laws with a topographical arrangement of the special features of legislation in other states.

**Constitutional amendments**

Iowa at its general election in November 1908 ratified the following amendment to section 18 article 1 of the Constitution.

The General Assembly, however, may pass laws permitting the owners of lands to construct drains, ditches, and levees for agricultural, sanitary or mining purposes across the lands of others, and provide for the organization of drainage districts, vest the proper authorities with power to construct and maintain levees,

drains and ditches and to keep in repair all drains, ditches, and levees heretofore constructed under the laws of the state, by special assessments upon the property benefited thereby. The General Assembly may provide by law for the condemnation of such real estate as shall be necessary for the construction and maintenance of such drains, ditches and levees, and prescribe the method of making such condemnation.

### Oklahoma

Laws 1908, chapter 30, article 1, an act to be known as the Oklahoma State Drainage Act and shall apply to every drain, ditch, water course, canal, levee, or embankment or other structure of what ever kind used or to be used in carrying surface waters off any lands within the state; and to all bridges and other structures over and upon any such improvements.

**Eminent domain.** The officers of drainage organizations shall have the right of eminent domain, and shall acquire right of way by condemnation, purchase or donation, excepting through cemeteries and in incorporated cities or towns where the consent of the lawful authorities of such corporations is necessary.

**Organizations of districts.** The county commissioners at any regular meeting can organize a drainage district or hear and determine all objections to the creation of such a district and their decision shall be final except as otherwise provided.

**Commissioners defined.** The term commissioners in this act shall mean the board of county commissioners.

**Drain defined.** The word drain shall include any open, underground or tiled ditch, water course, canal, levee or embankment, or other improvement authorized by this act.

**Establishment of drainage districts.** Before a drainage district can be established there shall be filed with the county clerk a petition signed either by 15% of the owners or by the resident owners of 15% of the total number of acres of land to be benefited. The petition shall give a general description of the proposed improvements and define the starting point and terminus; also state how funds are to be provided for making the improvements. If the commissioners find the improvement will be a benefit to the public health or will be of public benefit and utility they can organize the district without additional petitioners; otherwise, the petition will require the signatures of either 50% of the owners or the resident owners of 50% of the total acreage benefited. A bond shall be filed with the petition for a sum not less than \$50 for each mile in length of the proposed improvement.



**Notification of petition being filed.** After filing of the petition the commissioners shall within 10 days notify each person affected by the petition to appear and show cause why the district should not be organized.

**District in two or more counties.** Where the district comes in more than one county the commissioners receiving the petition shall send copies of all records filed with the petition to each county interested, and a hearing for the area in each county shall be held in its own county. The district shall be organized on condition that 15% of the owners or 15% of the acreage in each county shall approve of the organization. The commissioners of all the counties interested shall meet jointly within 30 days after the hearing and prorate among the landowners their proportionate share of the cost. After which the commissioners of each county shall levy assessments and issue bonds the same as if the district was entirely in one county. Benefits to the entire county as a body politic shall be prorated between the counties according to the benefits to each and paid from the public funds of each county.

**Viewers and their reports.** After filing the petition and approval of the bond the commissioners shall appoint three resident landowners of the county not interested in or related to any one in the district. With the assistance of the surveyor these viewers shall examine the location of the proposed improvement and determine if it is practicable, necessary and of general utility and benefit. They shall also recommend the best route and method of construction. Their report shall be made in writing and filed with the county clerk.

**Hearing on the viewers report.** On the filing of the viewers report the county commissioners shall if in session, or the county clerk if the commissioners are not in session, fix a time for a hearing on the petition and report. This notice shall be published for two weeks in a paper of general circulation in the county and shall describe the proposed improvements and give the date of the hearing. The last notice shall appear at least 10 days before the date of the hearing. After the hearing, if the commissioners find in favor of the organization, the petitioners shall be released from their bond and the lands described in the petition shall constitute a drainage district designated by name and number. If they find against the organization the petition shall be dismissed at the cost of the petitioners.



**Objections may be filed.** Any person desiring to object to the organization of the drainage district shall file a written remonstrance in the office of the county clerk before the day for the hearing of the viewers report.

**Commissioners records.** The findings of the commissioners with all relative reports shall be entered upon their records.

**Surveys and plans.** After the organization of the district the commissioners shall direct the three viewers previously appointed and the surveyor to make all necessary surveys with plats and profiles, locate the improvement and estimate its cost. They shall make a schedule of all lots and lands and of public and corporate roads and railroads and determine the damage and benefits to each 40 acre tract or less and proportion the cost of locating the improvements to each, and if directed by the commissioners they shall proportion the cost of construction to each. They shall specify the manner and time in which the improvements shall be made and all necessary structures with their dimensions. This report shall be filed in the office of the county clerk within 30 days after the survey and assessments are completed.

**Viewers may vary from petition.** In locating the improvements the viewers may vary from the location called for in the petition, provided they commence at the point described in the petition and follow down the line as near as practicable. They may extend the drain below the outlet named in the petition up to 1 mile. When it will not be detrimental to the good of the work they shall locate on the division line between farms and as far as practicable avoid locations diagonally across lands, but the general utility of the drains shall not be sacrificed by such locations.

**Hearing on viewers second report.** The county clerk shall set a day for a hearing on this report of the viewers during the next regular meeting of the commissioners, and he shall notify every person whose lands are affected by the above report in regard to the report and the date of hearing. These persons, if they so desire, can appear at the hearing and give their reasons why the report should not be confirmed. The notice of the hearing shall be published for four weeks in a newspaper of general circulation in the county, the last insertion to come before the day set for the hearing. If the commissioners find that due notice has been given, they shall examine the report, hear the objections, and make such changes or amendments as they think desirable.

**Assessments.** All lands benefited shall be assessed according to the benefits whether the improvements pass through the lands or not. But the viewers shall not consider what benefits may be derived after some other drains shall be constructed but the assessments must be made on the benefits actually derived from the construction of the proposed improvements, and the expense of the improvements shall be prorated proportional to the whole acreage benefited. In estimating, damaged lands and drains appropriated and the direction of the drain across the land shall be taken into consideration.

**Drains located along the highways.** Drains shall be located a sufficient distance from the center of a highway to admit of a good road along the central line, if the same be practicable. Earth taken from a drain may be placed on the highway but not in such a manner as to injure the road and none of it must be left nearer than 3 feet to the drain.

**Benefits to public and corporate interests.** When the drain benefits any road or railroad, such road or railroad shall pay its share of cost for the improvement in proportion to the benefits received.

**Damage claims.** Before the date of the viewers hearing any person may claim damages which may occur from the proposed improvement and the commissioners may examine witnesses and collect such evidence as necessary to pass intelligently on these damage claims. If the damages are allowed the cost shall be paid by the district, but if overruled they shall be paid by the persons filing the claim. Persons may appeal from the ruling of the commissioners to the district court; provided that this appeal is made within 10 days after the ruling of the commissioners, a bond satisfactory to the clerk of the district court is filed with the appeal and the appeal will not prevent a stay of proceedings before the commissioners or prevent progress in the work of construction. The cause shall stand for trial and be heard as other appealed cases are tried in the district court.

**Drainage commissioner appointed.** A drainage commissioner shall be appointed who shall inspect the work of construction and after construction shall keep the improvements in repair. All suits for condemnation or other proceedings in the district court against the drainage district shall be in the name of the drainage commissioner. This drainage commissioner shall be appointed by the commissioners on condition that he have the indorsement of not less than 20% of the resident owners of property included in the district.



**Damages awarded.** Upon confirmation of the viewers report the commissioners shall draw warrants upon the treasury, for the amount of damages awarded any person above the benefits.

**Failure to file objections.** Any person liable to be damaged by proposed improvements who fails to file claims by the day set, shall be considered as having agreed to the report and shall not afterward claim damages.

**Letting of the contract.** The commissioners shall fix the time and place of letting the contract, and shall have the surveyor present at this letting and the work shall go to the lowest responsible bidder, who can furnish a satisfactory bond.

**Contracts; how let.** Contracts shall be let by public outcry, in sections of not less than the number of lineal feet proportioned to each separate lot or tract of land. The owner of any tract of land shall have the right to construct the part of the improvement proportioned to his land at the estimated cost of the work, subject to all the terms imposed on other contractors, but any landowner who desires to construct his portion of the work must before the hour of letting, give notice in writing accompanied by a satisfactory bond to the county surveyor, of his intention to construct his work. No bids shall be accepted for a greater amount than the estimated cost, and must be accompanied by a bond covering at least 20 per cent of the bid.

**Extension of time.** Commissioners for good reasons may extend the time for completing a contract but such extension shall not impair the contract or the bond.

**Contract relet.** If a contractor fail the commissioners may relet the work, or such portions of it as are incomplete in the same manner as the original contract, the defaulting contractor being liable on his bond for damages and costs caused by the reletting.

**Warrants may be issued.** In lieu of bonds commissioners may issue warrants on drainage district bearing 6% interest to pay for the improvements.

**Assessments a lien on land.** All assessments, costs and interest not to exceed 6% shall become a lien on all lands in the district and shall be paramount to all other claims except state, county and municipal taxes.

**Number of instalments.** The commissioners shall determine the number of instalments in which the assessments will be paid and the rate of interest the assessments shall bear.



**Bonds, how issued.** If the petition calls for a bond issue, the commissioners shall issue bonds in denominations of not less than \$100. These bonds shall run for 25 years bearing 6% interest payable semiannually.

**Acceptance of work.** Any contractor on the completion of his allotment shall notify the surveyor, who shall examine the work and if it is properly completed he shall give to the contractor a certificate of acceptance. The commissioners shall then audit the claim and issue a warrant for its payment.

**Bridges or culverts.** The commissioners have the right to enlarge or construct any bridge or culvert necessary. If the bridge or culvert belongs to any corporation other than the county, the county clerk shall notify such corporation that the structure must be enlarged or rebuilt, and if it is not done within a specified time the commissioners shall perform the work and charge the costs to the corporation.

**Owners of lands to keep drains open.** Every person through whose land a drain is constructed shall keep the drain free from obstructions on his own land. Vegetable growth which has a tendency to fill the drain shall be kept down. The construction of a fence which will not allow the water to flow freely shall be considered an obstruction. Persons violating the above shall be guilty of a misdemeanor.

**District property.** All improvements constructed under this act are public property to be used for the benefit of the district. Each person owning land in the district shall have the right to drain his land into the ditches; provided that if it is necessary for him to drain through the land of another or along the public highway he shall notify the drainage commissioner who shall inspect the location of the proposed drain and designate the point at which he can enter the district drain.

**Repair of drains.** The owner of any lands in a district may make application to the commissioners for the cleaning or repair of a ditch. They shall instruct the drainage commissioner to make a report on the proposed work, and if he reports that the work should be performed, assessments shall be made and the contract let the same as provided for new work; if he decides that the work is not necessary the application shall be dismissed at the cost of the applicant.

**County clerk's record.** The county clerk shall keep a complete record of every improvement under this act, with all relative reports and plats.

**Salaries.** The commissioner and viewers shall each receive \$3 per day for the time employed. Other public officers shall receive the same fees as allowed by law for like services in other cases.

**Prosecutions.** Suits on bonds for costs and for the nonperformance of contract shall be prosecuted by the county attorney.

**Owners of land may pay assessment.** Owners of land before bonds are issued may pay the assessment and present the entry of their lands on the drain tax book.

**Obstructions by piling.** Piling or posts shall not be set in the drain for the purpose of supporting bridges; they must be placed on the banks of sufficient width not to obstruct the flow of water.

**Obstructions in a drain.** Any person or corporation may, subject to the approval of the drainage commissioner or commissioners, construct a lateral drain which shall enter a district drain if a box or tiling be placed at the mouth of the lateral drains. Such tiling shall be as large as the lateral and at least 15 feet in length. A violation of this section shall be deemed a misdemeanor.

### Special legislation in other states

**Commissioners not liable for trespass.** '07 ch.40 § 40 Texas. Provides that drainage commissioners or their engineer shall have the right to go upon any lands lying within the district in the discharge of their duties and to take such teams, help and tools as are necessary, without being subject to action for trespass and any person interfering with them shall be guilty of a misdemeanor.

**Drainage of lands outside of district.** '07 ch.40 § 49 Texas. Provides that private individuals or corporations outside of a drainage district shall not use any part of the drainage improvements until they have made application to the commissioners for such privilege and have paid for this privilege on the same basis as the landowners in the district paid for the original improvement.

**Additional outlet through another district.** '07 ch.40 § 49 Texas. Provides that when one district desires an outlet through the ditch of another district and the ditch in the lower district is not of sufficient size, the ditch in the lower district can be enlarged but the work shall be done under the supervision of the engineer of the lower district and all costs paid by the district desiring the enlargement.

**Outlet contract.** Laws 1907 page 344 amends chapter 122 article 4 Revised Statutes 1899 of Missouri so that the proper



officials of municipal corporations or drainage districts may contract for an outlet, either to be or already constructed, with a drainage district for such compensation and time of payment as may be agreed upon.

**Cities and towns.** Laws 1907 chapter 71 of Washington authorizes cities and towns to construct levees, ditches and other drainage structures within their corporation limits by special assessment or general funds, the method of procedure being practically the same as for drainage districts.

**Salaries.** North Dakota provides that commissioners' salaries shall not be less than \$2, nor more than \$4 per day, and newspapers shall receive regular rates for publishing drainage notices. Washington provides that drainage commissioners shall receive an amount set by the court not to exceed \$3.50 per day. Missouri provides that viewers shall receive \$3 per day, surveyors \$5, surveyors' assistants \$2, for printing drainage notices, 50 cents per square for the first insertion and 25 cents per square for each additional insertion. Utah provides that the compensation of drainage trustees shall be fixed by the board of trustees but shall not exceed \$3 for every day's service necessary and actually performed. Texas provides that the engineer shall not receive over \$10 per day for time actually employed; and each assistant shall receive not over \$2 per day for each day actually employed. South Dakota provides that drainage commissioners shall receive \$3 per day and newspapers the legal rate necessary for notices.

**Machinery purchased by district.** Laws 1907 chapter 444 section 1379 of Wisconsin provides that drainage districts having not less than 8 miles of open ditches, drains or levees may purchase and operate drainage machinery for repair work, on condition that a majority of the landowners representing one third of the land in the district or the owners of more than one half such lands petition the Circuit Court and the court after a hearing of all interested shall decide that it is more economical for the district to purchase the machinery than to do the work by contract.

**Pumping plants; purchase by district.** Laws 1907 page 283 of Illinois amends 1905 page 197 so that drainage and levee districts having pumping plants can levy an annual assessment of 60 cents per acre for the maintenance of pumps and repairs of the drainage structures.

Laws 1907 chapter 223 section 13 of Indiana provides for the purchase of pumps and the removal of water by pumping, subject to the same regulations as levee repairs.



Laws 1907 chapter 94 of Iowa amends chapter 68 of the laws of the 30th General Assembly by permitting drainage districts to instal pumping plants, the cost of construction and maintenance to be provided for the same as other drainage improvements.

**Repairs.** Laws 1907 chapter 93 of Iowa amends chapter 83 section 5 of the laws of the 31st General Assembly so that levee districts can issue bonds for repairs and empowers supervisors to audit and allow claims for repairs on levees either prior to or after the organization of the district.

Laws 1907 page 350 amends chapter 134 section 8437 Revised Statutes 1899 of Missouri so that levee boards as soon as the district is organized can levy an assessment of not to exceed 10 mills on the dollar on the valuation of benefits by reason of the contemplated work, and such assessments can be made on such years as necessary for construction and maintenance.

Laws 1907 page 333 replaces chapter 122 section 8307, 8308 Revised Statutes 1899 of Missouri by a new section which provides that a landowner who is assessed for the construction of a ditch can petition for its cleaning. The County Court shall give a hearing on this petition on the first session which convenes four weeks after the petition has been filed, and if he finds in favor of the petition, shall order the work done and levy an assessment.

Laws 1907 chapter 314 of Arkansas provides for a board consisting of the county judge, county clerk, and county sheriff, who shall estimate and levy an assessment each year for the purpose of having a cash fund on hand for repairing and cleaning public drains.

Laws 1907 chapter 120 amending sections 3717, 3723, 3738 volume I Ballinger's *Annotated Codes and Statutes of the State of Washington*, requires drainage district officials to make, on or before November first of each year, an estimate, and levy an assessment sufficient to keep public drains in repair for the following year.

**Drainage; state control.** Laws 1907 chapter 247 of South Carolina provides that the Governor, upon request of the Senate and Representatives, or a majority of them in any county, shall appoint a Sanitary and Drainage Commission for that county of not more than five or less than three members. This commission shall have control outside of municipal corporations of all public drainage systems, establishment of roads, grades, and road ditches for both construction and repairs. The act gives this commission practically the same rights as are given to drainage commissioners

of other states. However, they are allowed to use convict labor when not employed on the roads for drainage work and they must report to the Legislature on the first day of each regular session.

**Loaning money.** Laws 1907 page 349 amends chapter 124 Revised Statutes 1899 of Missouri by adding section 8474a which provides for the loaning of surplus money belonging to levee districts for not more than 8% or less than 6% interest, the loan to be secured by first mortgage on real estate of double the value of the amount loaned.

**Contingent fund.** Laws 1907 chapter 323 of Michigan amends chapter 6 section 1 by providing that the drainage commissioners within 10 days after the letting of drainage contracts shall make an estimate plus 5% of the sum of the preliminary expenses and estimates, the total to the final cost of construction, the 5% to serve as a contingent fund.

**Assessment, amount of.** Laws 1907 chapter 242 of Washington amends section 3730 of Ballinger's *Annotated Codes and Statutes* so that no one assessment called shall be over 25% of the estimated cost of the work. It farther permits the making of another assessment when the original assessment is not sufficient to complete the work.

**Levee district drainage.** Laws 1907 page 335 amends chapter 112 section 8361 Revised Statutes 1899 of Missouri by giving levee commissioners authority to drain land in their districts.

**Bridges.** '07 ch.40 §46a Texas. Drainage commissioners are authorized to construct necessary bridges and culverts on county or public roads and pay for them out of the drainage fund.

**Bridge location.** Laws 1907 chapter 95 of Iowa adds the following provision to chapter 68 section 2 of the Laws of the 30th General Assembly: that ditches shall be located along natural water courses with due regard for straightening and joining the same. Bridges shall be located on railroads at the natural crossing of the stream unless the railroad company does not have its bridge at the natural crossing and if the ditch is located at the point where the railway has its bridge the company can not afterward object to the location of the ditch on the ground that it is not the natural location.

**Fencing.** Laws 1907 chapter 223 section 10 of Indiana provides that the officials of levee districts shall have control over completed levees, and if they deem best shall protect the levee by fences and shall keep the levee free from grass or undergrowth, by pasturing or such other method as they think best.



**Subdistricts.** Laws 1908 chapter 305 of Louisiana provides for the organizations of subdistricts, within the limits of large districts where more complete drainage is desired than is afforded by the larger or original districts.

**Publication of drainage law.** Laws 1907 page 290 of Iowa provides that the Secretary of State shall compile and publish the drainage laws of Iowa at the close of the 32d General Assembly.

**Circuit courts concurrent with county court.** Laws 1907 page 220 of Illinois provides that a circuit court shall be given concurrent jurisdiction with the county court in all drainage matters. When drainage matters are pending in the circuit court it shall have power to issue all necessary orders in either the term or vacation time.

**Dissolution of districts.** Laws 1907 chapter 165 of Washington provides for the dissolution of drainage districts on condition that a superior court of the county decides that the district should be dissolved after a hearing which has been petitioned for by two thirds of the landowners who own in the aggregate not less than three fourths of the land in the district.

**State land assessment.** Laws 1907 chapter 91 and 1907 chapter 74 of Washington provide that all state school and granted lands when benefited by drainage or levee improvements shall be assessed the same as private lands.

**District and tax levy.** Laws 1907 chapter 114 of Florida amending section 1 of chapter 5377 approved May 27, 1905, describes the boundary of a drainage district in southern Florida and levies an annual tax of 5 cents per acre beginning with 1907 on all lands in the district which were ceded by the general movement to the state of Florida under the act of Congress, September 28, 1850; the funds raised by this tax to be used for drainage purposes in the district.

**Right of way or road bed assessment.** Laws 1907 page 336 amends chapter 122 article 7 Revised Statutes 1899 of Missouri, so that a special board shall be appointed to assess railways, which are benefited by levees or drainage, by the mile instead of the acre. A corporation owning property so assessed shall have as many votes in the district as it has acres of land in the right of way. Laws 1907 page 337 amends chapter 122 article 7 section 8364 of the Revised Statutes 1899 of Missouri so as to permit levee districts to appropriate lands for right of way regardless of their ownership or location with regard to the levee district.



**Right of way outside of district.** Laws 1907 chapter 54 of California authorizes drainage officials, when necessary, to secure right of way and materials for construction outside of the district by donation, purchase or condemnation.

**Right of way donated.** Laws 1908 chapter 19 of Louisiana permits drainage boards to donate right of way to the United States government for canal purposes which are to be used as a public waterway.

**Method of ditch construction changed.** Laws 1907 chapter 138 of Minnesota provide a method by which, when a ditch has been laid out and contract let according to law but construction is delayed or found impossible due to unfavorable weather or other good cause, the method of construction can be changed upon recommendation of the engineer, a petition of 75% of the landowners and the written consent of the contractor.

**Straightening streams.** Laws 1907 chapter 95 of Washington amends 1895 chapter 117 section 7 by giving the board of levee districts the right to improve all streams within their districts subject to the approval of the United States government if such approval is necessary. Farther, they are given authority to construct all structures and appliances needed in a levee district.

**Stream straightening in municipal corporations.** Laws 1908 page 391 section 4447a of Ohio provides that for the drainage of any wet lands lying within a municipal corporation by the county commissioners who are empowered to straighten or improve any natural stream channel any distance outside of the corporation up to 4 miles in each direction from the corporation limits.

**Hogs.** Laws 1908 chapter 38 of Kentucky makes it unlawful for any person to allow hogs to run on any public levee and further provides that an annual revenue of 50 cents on \$100 valuation may be assessed for levee construction and repairs.

**Obstruction to drainage.** Laws 1908 chapter 310 of Louisiana makes it a misdemeanor to obstruct or injure a drain.

Laws 1907 chapter 155 of Delaware provides that any person who may injure or obstruct any drainage structure shall be guilty of a misdemeanor and fined not to exceed \$1000, or imprisoned not to exceed six months, or both.

**Commissioners reports.** Laws 1907 chapter 40 section 50 of Texas. Drainage commissioners shall make and file with the clerk of the county court on the first day of January of each year an annual report showing all the work performed by them during the year.

**Resident taxpayers.** Laws 1907 chapter 198 of Kansas defines a resident taxpayer in a drainage or levee district as one who pays taxes on land in the district and lives in the state of Kansas. However, this definition is limited to counties having a population of less than 70,000.

**Area to be included in district, how described.** Laws 1907 chapter 223 section 1 of Indiana provides that the petition shall describe the land to be included in a district in 40 acre tracts or less where they exist, according to the government survey, or in special grants where there are no government surveys, such tracts are owned or described by *metes and bounds*.

### Supreme Court decisions

Nebraska C. S. '03 section 6192 paragraph 1, constitutional law, judicial powers. The division of powers pertaining to the several branches of the state government made by article 2 of the Constitution is comprehensive and final, and the Legislature can neither add to nor subtract from the classes or character of questions with which the courts are entitled to deal.

Paragraph 2, same question of government policy. Whether a drainage ditch proposed to be constructed pursuant to article 1 of chapter 89 of the compiled statutes of 1903 will be conducive to the public health or welfare, or whether the route thereof is practicable are questions of governmental or administrative policy and are not of judicial cognizance, and the jurisdiction over them by appeal or otherwise can not be conferred upon the court by statute.

Citizens of Washington county petitioned the county board for the construction of a ditch. Other citizens filed a remonstrance, claiming that the ditch was not necessary. The county board decided in favor of the ditch. The objectors then appealed to the District Court. The court decided that the case was not appealable and the ruling of the county board was final. The decision of the District Court was affirmed by the Supreme Court.

Illinois 1885 page 77 section 40½: Constitution article 9 paragraph 9 declares that the General Assembly may vest the corporate authorities of cities, towns, and villages with power to make local improvements by special assessment, or otherwise. Section 10 declares that the General Assembly shall not impose taxes on municipal corporations of the inhabitants or property thereof for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of

debts contracted under authority of law. Hurd's Revised Statutes 1905, chapter 42, paragraph 115, provides that the commissioners of a drainage district, shall make all necessary bridges and culverts along or across any public highway or railroad which shall be deemed necessary for the use or protection of the work, and the cost of the same shall be paid out of the road and bridge tax. Held, that the statute requires the commissioners to make bridges, etc., at the expense of the drainage district, where such necessity arises from the construction of a purely artificial ditch at a place or along a line where no natural water course ever existed; and that said section, in so far as it empowers the commissioners of a drainage district to construct bridges or culverts in public highways of a town and to collect the cost thereof from the road and bridge fund, violates both sections 9 and 10 of article 9 of the Constitution.

The drainage commissioners of the central special drainage district in Mason Co., Illinois, rebuilt a bridge over a district drainage ditch that had not been constructed along a natural water course. The ditch was running parallel to the road and the bridge was for the purpose of connecting farm buildings with the road. After the drainage commissioners had rebuilt the bridge they tried to collect the cost of the same from the highway commissioners of the township. The Circuit Court ruled that it would be necessary for the drainage commissioners to pay for the bridge from the drainage districts funds as they had no authority to collect money from the road township funds to build a bridge, as it was strictly a drainage district affair. The judgment of the Circuit Court was affirmed by the supreme Court.





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REVIEW OF LEGISLATION 1907-8

LEGISLATION 390

FORESTRY

PHILIP P. WELLS, FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

**Forest service.** A nonpolitical commission, serving without compensation, variously entitled but herein for convenience uniformly called the board, is created by three states, Alabama ('07 ex.sess. p.192 §1), Oregon ('07 ch.131 §1), Vermont ('08 no. 11 §1). The Governor is a member in all these states and henceforth in Minnesota ('07 ch.171). In one (Ala.) he is chairman. Other members are: the Secretary of State (Or.); other state officers in charge of related lines of work (Ala., Or., Vt.); a nominee (Or.) and member (Ala.) of the United States Forest Service; nominees of the state lumbermen's and forestry associations (Or.); a practical lumberman (Ala.); two citizens specially qualified (Vt.). The recommendation of Governor Floyd (N. H. Jan. 3, 1907, p.17) that the board be abolished was not followed by the Legislature.

A chief executive officer, herein called "forester," responsible to the board and with authority over local forest officers, is provided for by three states under various titles: "state forester" (Vt. '08 no. 11 § 2); "state fire warden" (Mon. '07 ch.147); "state game, fish and forestry warden" (Mich. '07 no.317), replacing in Mich. ('07 no.106) the former "chief fire warden" and "forestry commissioner," except that the latter retains his power to investigate and report on fires. Alabama and Oregon have no intermediary between the board and local officers. Kansas ('07 ch.405), having no board or local officers, provides for two (instead of one) independent and coördinate "commissioners of forestry." Texas commits her forestry interests to the new commissioner of agriculture ('07 ch.59 §11 subsec.7). The forester is the old game and fish warden with new duties (Mich., Mon.) or a "professionally trained" man appointed by the board (Vt.). His salary (Mich. \$3000; Kan. \$1000 each; Mass. '07 ch.473, \$3000 instead of \$2000; Wash. '07 ch.201, \$2000 instead of \$1500)

and expense allowance (R. I. '07 ch.1465, \$500 instead of \$300) tend to increase.

Local officers performing forest duties incidentally to other public or private business, usually entitled "forest wardens" or "fire wardens" are herein called "wardens" for convenience. They may be existing officers performing this duty *ex officio*, such as game wardens (Ala. §6, Mon. §2. See also the message of Governor Broward of Florida April 2, 1907), chiefs of municipal fire departments (Ct. '07 ch.136 §1), and "peace officers" (Ala. §7) or existing officers specially designated such as state and county officers chosen by the board and national forest officers named by their supervisors (Or. §3); or private citizens specially appointed. Of the states following the last named course Massachusetts ('07 ch.475) and New Jersey ('07 ch.9) extend the system of appointment by municipal authority from rural to urban municipalities. In New Jersey also the board may create a district out of parts of several townships, appoint a warden and contract with any railroad company to share the expense. Michigan transfers from the (corporate) township supervisor to the forester the power to appoint a warden for each surveyed township. Massachusetts imposes a fine of \$10 for failing to accept the office and authorizes the warden of each "town" to appoint deputies as does Pennsylvania ('07 no. 86 §7). Oregon requires the board to appoint persons to be designated and paid by the counties. Volunteer wardens to serve without pay, may be appointed in two states, Alabama and Oregon.

No extra compensation is paid to *ex officio* wardens except in Alabama, where \$250 may be paid by each county to the county warden. Pennsylvania increases the hourly wage from 15 cents to 25 cents and New Jersey ('08 ch.213 §3) changes from a daily to an hourly wage scale, allowing \$10-\$20 a year also for routine work. Investigation work under the foresters' direction is paid for by him at discretion in Massachusetts.

Few states yet have local officers paid by the public and devoting their entire time to forest work (herein called "rangers") but all employees of the department of forestry have this status in Pennsylvania. The limitation of number (6) and compensation (\$5 per day) is abolished by Idaho ('07 p.18 §9). Officers with like powers ("deputy fire wardens") to be selected and paid by property owners may be appointed by the "supervisors" mentioned below (Id. §1) or by the board (Or. §3), instead of by the County Courts as hitherto,



Supervisory officers intermediate between the forester and the local officers are necessary to good organization where the territory to be covered is large. Governor Pardee of California (Jan. 7, 1907) advised the employment of at least 20 "district fire wardens" at \$50 per month during the season of danger. In Michigan (§2) the forester may divide the counties into districts and appoint a "deputy warden" over each at not more than \$1000 a year. In Idaho Land Commissioners must district the state and appoint private supervisors ("fire wardens") selected and paid by property owners.

The primary duties of forest officers as to fire and trespass are discussed below. There is a tendency to require of them, incidentally, general forest work (Mass. '07 ch.475 §2), forest investigations (N. J. '08 ch. 213 §3), special duties not specified (Or. §4), reports on local conditions. They may enter on private land (Or. §4), and are not liable for trespass (Mass. '07 §6) in the performance of their duties. Official misconduct is punished by fine (Or. §4 \$20-\$250; Pa. \$10-\$100) and imprisonment (Pa. 3 months).

**Forest work.** The pioneer work of forest investigation and experiment devolves upon the board (Ala. §3, Or. §2); the forester (Kan. '07 ch.405 §4, Mass. '07 ch.475 §4), with the aid of the wardens (Tenn. '07 ch.397 §16, 17, 19, 24, 25; Vt. '08 no. 11 §2); the State Commission on Natural Resources (La. '08 no. 144 §2, cf. Governor Blanchard's message May 12, 1908 p.43) or a special commission (Mich. '07 no. 188). Authority is given for coöperation with the United States Forest Service (Vt., Tenn., see the messages of Governor Patterson of Tennessee Jan. 1, 1907, 9-10; Apr. 1, 1907, p.3) and with the State Agricultural Experiment Station (Vt.). Provision for state nurseries is made (Kan. '07 ch.405, N. Y. '08 ch.466 p.1618, Vt. '06 no.15).

Popular education in forestry and a general forest propaganda are duties of the board in Alabama (§3) and Oregon (§2) but elsewhere of the forester (Kan., Mass. '08 ch.121, by sale of publications at cost; N. Y. '08 ch.466 p.1617, by illustrated lectures; Vt. §2) and the Commissioner of Agriculture (Tex. '07 ch.59 §11 subsec.7; Vt.). Montana ('07 ch.11) designates the third Tuesday in April as Arbor day to be observed by appropriate lessons and exercises in the public schools. Technical education in forestry is provided for in two states: Louisiana ('08 no.242, a chair in the state university), North Dakota ('07 ch.11, \$25,000 for buildings

at the Bottineau school); and recommended by the Governors of Colorado (Buchtel Jan. 8, 1907, p. 28) and South Dakota (Elrod, Jan. 8, 1907).

**Fire crimes.** California ('07 ch.536) codified her penal forest laws, substituting a uniform maximum penalty (\$500 fine and 6 months imprisonment for all violations) instead of various penalties up to double that maximum. The power to arrest offenders and institute prosecutions is given to forest officers (Id. '07 p.18 §2; Mich. '07 no.317 §7; Mon. '07 ch.147; Vt. '08 no.11 §2, 5).

Fire trespass on federal and state forests and timber lands is punished in Oregon ('07 ch.131 §2) by the same penalties as if committed on private lands; and in Tennessee ('07 ch.397 §1) by a fine of \$100-\$250 whether due to wilfulness or to neglect in quenching accidental fires or in allowing lawful fires to spread, but backfiring in good faith is lawful. Setting fire to the private lands of another is penalized if wilful or malicious (Ala. '07 ex. sess. p.192 §10; N. C. '07 ch.320 §4 as to 8 counties only; Or. §11; Tenn. §3-4; Va. '08 ch.40) or negligent (N. C. as to 8 counties; Tenn.) or merely without permission (Or. §6) under various penalties (Ala. \$25-\$50, and 30 days — 1 year; N. C. fine or imprisonment in discretion of the court; Or. §11 if malicious 1-10 years instead of 6 months-2 years, if merely without permission \$50-1000 or 1 month-1 year, instead of \$10-\$500; Tenn. "a misdemeanor"). Backfiring is lawful (Cal. subsec. 5). Leaving fire unquenched is punished in Wyoming ('07 ch.22) by fine of \$10-\$100, or imprisonment of 10-30 days. In Tennessee (§3) it is a misdemeanor as is the destruction of a fire warning notice. Camp fires on uninclosed lands in the absence of personal or posted notice to the contrary are lawful (Cal. subsec. 1; Or. §6) if certain precautions are observed and the fires are not left burning. Governor Cutler of Utah recommends (Jan. 15, 1907 p.44) severe penalties for fires caused by careless campers.

Setting fire on one's own land in New Jersey requires a permit at all times (instead of in dry season) ('08 ch.213 §5) unless in a public road, garden or ploughed field 200 feet from any woodland. In Connecticut ('07 ch.43) 20 feet (instead of 6) must be cleared around the fire. Pennsylvania prohibits ('07 ch.334) fires on forested oil or gas lands without permit or in a high wind, or without watchmen (penalty \$10-20, for first offense, thereafter \$20-\$100). The escape of fire from one's own land is criminal unless every effort is used to quench it (Cal. subsec. 5; Or. §6). In Tennessee



('07 ch.397 §15) it is a misdemeanor not to watch burning charcoal pits, brush fires, etc. which endanger or destroy another's property. In Alabama ('07 ex. sess. p.192 §11) a landowner must carefully cut and pile the material, and clear around the area to be burned, or give five days written notice to adjacent landowners. Oregon (§12) measures fire damage by the value of the property injured or destroyed and the detriment to the land and vegetation. California (subsec. 3) omits the former definition of the dry season. Elsewhere it is variously defined (Id. §3, June 1–Oct. 1; §6, May 1–Oct. 1; Mass. '08 ch.209 §1, Apr. 1–Dec. 1, instead of Oct. 1; Pa. Apr. 1–May 20 and Sept. 10–Nov. 10, as to gas and oil lands only). Vermont empowers the Governor to proclaim a special close hunting season for fire protection. In Pennsylvania (§1) the prohibition of fires during the dry season is absolute (as to oil and gas lands only) but in Idaho (§3) they may be permitted by the (private) supervisor and in California (subsec. 3) by the forester (formerly by wardens only). From the refusal of the local officers an appeal to the board is allowed in Oregon (§5). At the burning, which must not be in a strong wind nor without watchmen sufficient to control the fire, the local forest officer must be present in Idaho (§3) but this is now dispensed with in California (subsec. 1). Massachusetts ('08 ch.209 §2) allows at all times the burning of debris from gardens, etc. on ploughed land 200 feet from a forest, and fires set by due authority for suppressing certain insects. Penalties for breach of the dry season laws vary (Id. \$100–\$300; Pa. \$10–\$20 for first offense, \$20–\$100 thereafter). In Oregon the escape of an unpermitted fire is *prima facie* evidence of violation of the statute.

Spark arresters on engines operated in or near forests are prescribed (Ala. §12; Mass. '07 ch.431 §1, as to wood and coal burning railroad engines; Pa. §3, as to railroad engines on oil and gas lands; Tenn. §14, as to logging locomotives). Idaho (§4) limits its restriction to "spark-emitting" engines, but extends them as does Oregon (§8) to include other than railroad engines. Alabama and Pennsylvania except oil burners. The Idaho, Massachusetts and Oregon laws are operative only in the dry season. Railroads must protect their rights of way from fires likely to spread (Tenn. §12), or keep them clear of inflammable material (to the width of 400 feet including abutting private lands, Mass. §1, 2; 100 feet, Id. §4; as directed by the board, Or.; on oil and gas lands only Pa., §4), during the dry season (Id., Mass., Pa.) or when directed by the



board (Or.). In Pennsylvania abutting owners (of gas and oil lands only) must clear an additional strip of 100 feet on each side. The deposit of fire on the right of way is prohibited (Id. §7, Mass. §1, Pa. §3, Tenn. §12), warning notices must be posted (Id. §7, Mass. §1) and employees instructed (Id. §7, Mass. §5). Train crews and section hands must give prompt notice of fires along the line (Id. §7; Mass. §3, by whistle blasts; Tenn. §12), and the company must put them out (Id. §7; Mass. §1; Pa. §3 as to oil and gas lands only). Railroad construction masters and gangs must put out fires set by them (Tenn. §13). Penalties for violation of these statutes regulating engines and railroads vary from a minimum of \$10 (Pa.) to a maximum of \$1000 (Or.). The burden is on defendant to prove his equipment up to standard (Cal.) but if it is standard it excuses the escape of fire (Ala.). Civil damages are expressly allowed by two states (Pa. §3; Tenn. §13) but one (Id.) omits such a provision as to state lands. Three (Ark. '07 ch.141 §1; S. D. '07 ch.215; Va. '08 ch.269) by special statutes make railroads liable for all damages caused by their operation.

The prevention and suppression of fires is the duty of forest officers (Ala.; Id.; Mich.; Mon.; N. J. '08 ch.213; Pa. '07 ch.86; Tenn.; Vt. '08 no.11) of fish and game officers (Mass. '07 ch.299) municipal fire departments (Mass. '07 ch.475) and of the State Board of Agriculture (Mich. '07 no.299, as to the state forest). Officers in adjoining districts must coöperate (Id., Mich., Pa.), must post warning notices prepared by the board (Id.; Or., formerly by county clerks) or by the forester (Mich.), patrol their districts in dry seasons (Id.), inspect dangerous areas, destroy inflammable material, caution campers and settlers (Mich.) and in dangerous seasons take extraordinary measures at discretion (Mich., Tenn.), attend in person when fire breaks out (Ala.), notify all persons interested (Mich.), hire (Id., Mon.) or summon laborers (Ala., Id., Tenn.) under penalties for disobedience (Id. \$10-\$100; Tenn. \$100 or three months), who are to be paid for their services by the day (Id. \$2.50; Tenn. \$3) or hour (N. J., 20 cents instead of \$1.50 per diem). They must also report on fires (Mich., N. J., Pa.).

Pennsylvania pays the state's share of the expense (two thirds instead of one half) by reimbursing the counties (instead of directly) and appropriates \$40,000 for the purpose. California appropriates \$5000 for the construction, in coöperation with the United States, of fire lines in the San Bernardino mountains.

**Trespass.** Forest officers enforce the trespass laws, arrest offenders, institute prosecutions etc. (Ala. '07 ex.sess. p.192 §6, 7, 8, 13; Or. '07 ch.131 §4; Tenn. '07 ch.397 §26; Vt. '08 no.11 §2, 5) and at once notify the board of each offense (Ala.). Timber trespass on lands of another is a misdemeanor if wilful (N. C. '07 ch.320 §1, in 8 counties only; Tenn. §9, 10) otherwise subjects the offender to double civil damages (N. C. §5). Timber and turpentine rights are protected in Florida by making the destruction or injury of the standing trees of another theft ('07 ch.5685) and by giving the equitable remedies available to landowners ('07 ch.5682). The Louisiana Supreme Court (*State v. Peterman*, May 25, 1908, 46 So. 672; *State v. Davis*, June 8, 1908 id. 673) declares unconstitutional the statute punishing timber trespass ('02 no.103) because it contains more than one subject. The old law ('90 no.137) seems thus to be revived. Trespass on public forests and timber lands is a crime (Me. '07 ch.27 §4, as to private lands charged with public park uses, penalty \$100; Mich. '07 no.299 §4, as to breach of timber sale contract and camping or hunting without permit, penalty \$100 or 90 days; N. M. '07 ch.104, \$100-\$1000 or 3 months-one year; Tenn. §5, penalty \$50-\$100) and a tort (Me.; Mich., for cutting or removing timber, treble damages; N. M. double damages). It is one subject for an investigation by an extraordinary commission in Michigan ('07 no.188 §2) and for suggestion of amendments in legal procedure in Minnesota (Governor Johnson's message of Jan. 9, 1907, p.36-37). To receive (N. C. §3, 5; Tenn. §7) or saw timber with knowledge that it was cut is trespass (N. C. limited to private land in 8 counties only); is a misdemeanor punishable by fine (Tenn. \$50-\$100) or imprisonment at the discretion of the court (N. C.); and a tort (N. C. double damages). Forest officers must seize trespass material from state lands (Tenn. §8) and other material with which it has been wilfully commingled (§6) the whole mass being presumed to have been cut from state lands. Fines are all (Ala. §15) or one half the gross (Cal., instead of all the net) applied to forest uses.

**Private forests.** Owners of private forests are aided by technical advice (Vt. '08 no.11 §2) and seedlings (Mass. '08 ch.478 §7; N. Y. '08 ch.466, p.1618, recommended by Governor Hughes's message of Jan. 1, 1908 p.24; Vt. '06 no.15 §3-4) at cost. Timber and turpentine rights owned separately from the land are to be separately taxed (Fla. '07 no.130; Va. '08 ch. 220) as personalty (Wash. '07 ch.108) and exploitation is prohibited (Fla. '07 no.88



penalty \$1000), while taxes remain unpaid. Delinquent state tax lands were one subject for investigation by a special commission (Mich. '07 no.188 §2, 3).

Special tax favors to forests were opposed by one Governor (Dawson, W. Va. Jan. 8, 1907, p.28), advocated in more or less express terms by five (Blanchard, La. May 12, 1908, p.43-45; Guild, Mass. Jan. 3, 1907, p.30; Warner, Mich. Jan. 3, 1907, p.7; Harris, Ohio, Jan. 6, 1908, p.25-26; Elrod, S. D. Jan. 8, 1907, p.39) granted by two states (Ala. '07 ex.sess. p.192 §5; Wis. '07 ch.592), and by three (Me. '07 ch.109; Mass. '08 ch.120; R. I. '08 ch.1581) extended to include natural reproduction as well as plantations (Me., formerly only plantations made before March 30, 1882) and plantations on woodland or sproutland as well as agricultural land (R. I.); and additional species (Mass., R. I.). The new exemptions are for 10 years (Ala. discretionary with tax commission on recommendation of board) and 30 years (Wis.) and include lands denuded, or assessed at not over \$5 per acre (Ala.), or plantations (Wis.). Two states fix a limit of area (R. I. 300 acres; Wis. 40 acres). The minimum of trees to be planted in Wisconsin is 1200 per acre. In harmony with European tax methods the Philippine Insular Government imposes specific and ad valorem taxes on timber and fire wood cut from the public forests ('06 no.1575). North Dakota ('07 ch.41) converts the existing tax rebate into a bounty and California ('07 ch.282) authorizes counties to pay a bounty of \$1 for each shade tree set out in public grounds and highways.

Oregon ('07 ch.156) authorizes the inclosure of county roads, except 50 feet, for plantations on United States reclamation areas. North Carolina ('07 ch.201) authorizes the summary taking of timber and stone from private lands for the repair of public roads.

The right of the Legislature to restrict, without compensation, cutting on private lands for water conservation is affirmed in a notable opinion by the Supreme Court of Maine (March 10, 1908). Oregon ('07 ch.131 §9) requires lumbermen to burn their debris annually at times fixed by the board (penalty \$100-\$1000). Governor Pennypacker of Pennsylvania a second time (Jan. 1, 1907, p. 5-6) recommended a similar law, and the Legislature required clearing only on oil and gas lands within 100 feet of wells, rigs and railroads. Timber rights are declared to be real property by New Hampshire ('07 ch.27).

**Public forests.** The acquisition of land for National Forests in the White and Southern Appalachian mountains was advocated by



four states (N. C. '07 p.1420 res.; R. I. '08 r. 13; W. Va. '08 p.257; S. C. res.5). Two more states give their formal consent to such acquisition (Ala. '07 ex.sess. p. 192 §18½; Md. '08 ch.217). Remonstrances against existing or proposed National Forests were made (Okl. '08 p.782 res.; Mon. '07 p.593 res.)

The creation of state forests is a subject for investigation in three states (Ill. ex.sess. '07 p. 104 res. by legislative committee; Mich. '07 no.188, §2, 3, by special commission; Tenn. '07 ch.397 §18, 24, by forester) is accomplished by the reservation of public lands in two (Mich. '07 no.299 §1, Agricultural College lands; Minn. '07 ch.90, Itasca state park), is facilitated by authorizing the acceptance of gifts in four (Ala. '07 ex.sess. p.192, §4; Mass. '08 ch.478; Tenn. §22; Vt. '08 no.11), the exchange of lands with the United States in one (Wis. '07 ch.96, sale of state lands in Indian reservation to the United States and purchase of land for state forest with proceeds. Compare Governor Pardee's (Cal. Jan. 7, 1907) recommendation for exchange of state lands in national forests and reservation of timber lands received in lieu), and outright purchase in five (Mass. '08 ch.478, \$5000 in 1908, \$10,000 annually thereafter; N. J. '07 ch.143, general authority to acquire fresh-water lakes and ponds—compare Governor Stokes's recommendation Jan. 8, 1907, p.34, of further development of the state forests; N. Y. '08 ch.466 p.1619, \$54,968.62 and \$548,817.42 for purchases in the Catskill preserve and Adirondack park respectively—compare Governor Hughes's recommendations, Jan. 2, 1907, p.25 and Jan. 1, 1908, p.24 of extended purchases now to avoid high prices later; Vt. '08 no.11, general authority for the board to purchase out of its \$12,000 appropriation for all purposes, Wis. '07 ch.491, \$10,000 annually to buy at tax sales lands north of township 33, the state to have an exclusive option for one year, statute of limitations for redemption the same as for a private purchaser). The Massachusetts purchases are limited to scattered experimental and illustrative tracts (maximum 40 acres except on watersheds for municipal supply, maximum price \$5 per acre), the purchaser, (and donor if he so expressly covenants) to have the option of repurchase within 10 years at the original price plus expenses and 4% interest. Governor Johnson of Minnesota recommended (Jan. 9, 1907, p.45-46) an appropriation to begin the purchase of land for state forests.

The administration of the national forests is the subject of remonstrances by Idaho ('07 p.588 res.) and Montana ('07 p.593 res.). Governor Chamberlain of Oregon recommends (Jan. 16,

1907, p.13-15) that the state repurchase lands in national forests rendered valueless in the hands of purchasers by the repeal of the federal lieu selection law. State forests are to be used to conserve the water and timber supply (Tenn. §21; Mass. §8) for demonstration purposes (Ala. §4; Mass. §1), for purposes of illustration and for the field work of forest students (Mich. '07 no.299 §2; Minn. '07 ch.90 §3). They are administered in some states by the board (Ala. §4) which may make reasonable regulations concerning them (N. J. '07 ch.143 §2, penalty for breach \$10), grant rights of way for railroads, telegraphs and telephones on conditions approved by the Governor, Attorney General and Auditor (Ind. '07 ch.57 §1, 2), approve and control reservoirs for the improvement of the Wisconsin river, the damages for flowage of state lands to be fixed by the Railroad Commission (Wis. '07 ch.335 §3, 6). The State Board of Agriculture administers the Michigan state forest (§2). In still other states they are administered by the forester (Mass. §4; Tenn. §18; Vt. '08 no.11 §2). Minnesota ('07 ch.90 §2) will preserve intact the primeval forest in Itasca state park, cutting only weak, diseased and insect-infested trees (in accordance with Governor Johnson's recommendation of Jan. 9, 1907, p.45-46). Planting is authorized by several states (Mass. §8; Mich. §2, white and red Norway pine and other valuable timbers; Mon. '07 ch.351, \$2500 for evergreen seedlings in the Pillsbury forest in accordance with Governor Johnson's message above cited; N. Y. '07 ch.577 and '08 ch.466 p.1618, in accordance with Governor Hughes's recommendation of Jan. 1, 1908, p.24; Tenn. §18, reforesting denuded lands; Vt. §4), sale of timber by two (Mich. §2; Vt. §2), sales of other products by one (Vt. §2). Only selected and designated trees are to be cut and the debris must be cleared and burned under inspection (Mich. §2). The state forest is a game preserve (Minn. §4, Itasca state park) and nonresident campers must hire a warden to be responsible for fires (Tenn. §23).

The federal grant of 10% of the gross income from national forests (U. S. '06 ch.3912 p.684, June 30), later increased to 25% ('08 ch. 192 p.260, May 23) to the states for the roads and schools of the counties wherein the forests lie, is to be apportioned between these two objects by the county officials in two jurisdictions (Ari. '07 ch. 51 §3; Wash. '07 ch.185), equally divided between them in five (Cal. '07 ch.277 §4; Mon. '07 ch.127; Or. '07 ch.160; U. '07 ch.145; Wy. '07 ch.7), unequally in three (Id. '07 p.162, § 2, 3, schools 25%, roads 75%; Neb. '07 ch.143, schools 80%, roads 20%; S. D. '07 ch.154,



schools 10%, roads 90%). One (Nev. ch.191) gives it all to schools. Governor Chamberlain of Oregon demands (Jan. 16, 1907, p.9-10) the entire (net?) revenue for the state. In like manner the townships are paid on account of land in state forests (N. J. '08 ch.214, 2 cents per acre; Vt. §3 full taxes). The income from state forests (Ala. §15; Minn. '07 ch.90, but net income goes to the State Treasury; Vt. §3) and from forest funds (Wis. '07 ch.406) may be used for forest purposes; or for the State Agricultural College (Mich. '07 no.299 §1).

The timber on public lands not held for forest conservation may be sold (N.M. '07 ch.104 §28) if in danger of destruction by insects (S. D. '07 ch.224 §1) and of over 1,000,000 feet in quantity must (Wash. '07 ch.255, 256) be sold separately from the land at auction (S. D.) under regulation (N. M.) for the protection of young growth (S. D.) with a 12 inch diameter limit for growing trees (N. M.) Payment must be in cash (N. M.; Wash.) or at the state's option in from 10 to 20 equal annual instalments with annual interest at 6 per cent in advance (Id. '07 p. 193). The time allowed for removal of the timber, varies (Id. 10-30 years; S. D. 5 years; Wash. 5 years with an extension at the state's option, if good faith is shown, of two years at an extra charge of from \$1 to \$2 per acre per year). New Mexico fixes a minimum price of \$2 per thousand feet. Selected private lands are charged with a public forest use in two states by agreement of private owner and state (Mass. '08 ch.478) or by exercise of the state's sovereignty with compensation to the owner (Me. '07 ch.27). In Massachusetts one who exercises his right to repurchase land sold by him for a state forest (the scattered demonstration tracts above described) must thereafter cut within a minimum diameter limit specified in the deed of reconveyance. In Maine cutting on 5 rod strips along highways and watercourses may be subjected to the control of municipal park boards, chiefly for esthetic purposes.

**Shade trees.** In Alabama towns and cities, shade trees must not have electric light or power wires attached to them nor be mutilated without the consent of the Mayor (Ala. '07 ex.sess. p. 192 §4, penalty \$25-\$100). Pennsylvania municipalities may control shade trees in highways through special unpaid commissions or established park commissions, the initial cost of planting etc. to be borne by the owner of abutting property and the cost of maintenance by the public (Pa. '07 no.251). New Jersey ('07 ch.156) amends its statute authorizing similar commissions. Wisconsin ('07 ch.495)



creates a "state park board," of which the forester is a consulting member, to control parks acquired for historical interest or scenic beauty.

**Forest products.** Forest products are the subject of laws: to protect property in derelict logs, boats etc. by salvage proceedings (Miss. '08 ch.120) or by public advertisement before use or sale (S. C. '07 no.251); to extend condemnation proceedings for private ways so as to include ways along water courses for log driving (N. C. '08 ch.99, Ashe county only); to require an annual license fee of \$50 from every dealer in evergreen trees (Vt. '06 no.139). Wisconsin ('07 p.1286 res.) creates a legislative committee to investigate combinations in the lumber trade.

**General.** The volume of forest legislation was unprecedented. It included the codification of the New York forest, fish and game law into a single statute ('08 ch.130) in accordance with the recommendation of Governor Hughes (Jan. 1, 1908, p.24-25). Other governors advocated forest conservation in general terms (Ala., Comer, Nov. 7, 1907, p.3-4; Md., Warfield, Jan. 1, 1908 p.63; Mich., Warner, Jan. 3, 1907, p.7; P. R. Post, Jan. 14, 1908, p.50). Vermont ('08 no.11) begins its new forest policy with an appropriation of \$12,000 to be apportioned by the Board of Agriculture and Forestry between those two objects. Massachusetts ('07 ch.473), in place of a standing appropriation of \$5000 is to appropriate annually such sums as may be needed. California ('07 ch.282) authorizes counties to tax themselves for fire protection and other forest work. The states are more and more pursuing forest work along approved and tested lines with a tendency to uniformity of organization and activity so far as is allowed by considerations of expense. It is probable that the next forward step will be toward a more rigid public control of private forests both for prevention of fire and conservation of the water and timber supply.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39P

**FISH AND FISHERIES**

M. C. MARSH, UNITED STATES BUREAU OF FISHERIES

Ten governors in 1907, and five in 1903, made recommendations concerning fish, or fish and game, in their annual messages. Save for some legislation looking toward uniformity of laws over interstate waters, and the revision of the New York Forest, Fish and Game Law, these recommendations were not carried out by the Legislatures. In 1907 the Governor of Pennsylvania advised a renewal of the commission to consider jointly with a similar commission from Delaware the shad and sturgeon fisheries of the Delaware river, and the Governor of New Jersey referred similarly to the wisdom of uniform legislation for the shad fisheries. The Governor of Florida recommended in general terms protection of the fish and oyster industry, specifying in particular the mullet, and strongly advised a graduated license tax on the fish industry, not for revenue but to enforce the laws regulating the fisheries. The Governor of New Hampshire expressed the belief that the Fish and Game Law provided excessive fines, to which costs of prosecution were added, making a disproportionate penalty. The Governor of Utah recommended that an annual fee be charged resident hunters and fishermen. The Governor of Delaware recommended a new oyster law.

In 1908 the most notable comment was made by the Governor of New York. He cites the passage for years past of some 40 statutes annually, amending the forest, fish and game law, and during the past year the failure of 30 additional bills for want of approval. He finds no reason for such a large quantity of legislation and recommends the revision of the whole body of law on this subject. The Governor of New Jersey recommended the condensation of the three oyster commissions and the Bureau of Shell Fisheries, with their 11 salaried heads, into one organization. The Governor of Virginia suggested the wisdom of devoting the entire oyster revenue for a term of years to the protecting and fostering of the industry.

## Legislation

About 141 acts having to do with fish and fisheries were passed by the states in 1907 and 1908. 98 of these pertain to 1907, the year of most of the biennial sessions. The volume of legislation remains about the same as in recent years.

There are no especially striking features in the legislation of the two years unless it is that of the referendum in Oregon. There were, as always, some close season enactments, nearly all extending closed periods already created. Restrictions on the shipping and offering for sale of fish are of more recent origin and to these there were a number of additions, nearly all during 1907. Limitations on fishing through the ice, a still newer method of control, were passed in four states. Trout were additionally protected.

In Massachusetts the destructive dogfish received attention from the Legislature in both years, in 1908 (r.69) by an appropriation of \$10,000 for investigations directed to reduce its damages to the fishing industry. Several states classified fish for the purposes of legislation, defining the categories "game fish," "rough fish," "bait fish" and "food fish." Massachusetts ('07 ch.297) defined a "seed scallop" and New York ('07 ch.57) made the loosely used inclusive names "pickerel" and "pike" cover nine separate vernacular designations. New York ('08 ch.130) also, in response to the Governor's recommendation, recodified the whole forest, fish and game law.

An act of an unusual type was passed in Connecticut in 1907, providing a minimal instead of a maximal expenditure. The commissioners of fisheries and game are directed to expand from the propagation fund not less than \$1000 annually in propagating and distributing small mouth black bass and yellow perch.

**Oysters and other shellfish.** The oyster enactments and amendments, though containing nothing radical, continued the trend toward intimate supervision. Oregon ('07 ch. 217) passed a specific oyster act giving the Fish Commissioners control of natural beds with power to make regulations, with the fish wardens to enforce them. Pollution of public waters with any material whatever injurious to shellfish is forbidden. Heavy penalties are provided. New Jersey ('07 ch.187) authorized the use of boats, apparatus and experts in scientific investigations of ostracultural problems and increased the appropriation (\$200 to \$1200) and forbade ('08 ch.230) planting of oysters or clams upon unleased grounds. Louisiana forbade ('08 ch.291) the carrying of oysters out of the state. Maine



('07 ch. 122) appropriated \$1000 to "conserve, extend, encourage, develop, improve and increase" the shellfish industry.

**Uniform legislation.** In certain regions of the country where great fisheries are interstate a uniformity of legislation is of paramount importance. The oyster, shad, sturgeon and salmon fisheries suffer from diverse laws of separate jurisdictions, and the conflicts of some of these have permitted the serious depletion or prevented the rehabilitation of some of the greatest fishing industries of the country. The states are appreciating the value and necessity of uniform systems of conservation. Delaware ('07 ch.146) and New Jersey ('07 ch.131) passed substantially identical legislation covering fish other than shellfish in Delaware river and bay. The acts are long and comprehensive and provide protection in detail. Pennsylvania ('07 ch.152) created a commission, to succeed a similar commission whose powers had lapsed, to consider jointly with similar commissions representing New York, Delaware and Maryland concurrent legislation for the propagation of fish. New Jersey ('08 p.726) appointed a commission to meet the authorities of New York and Pennsylvania for the purpose of drafting a uniform law for the propagation and protection of fish in the Delaware river and to obviate pollution of this stream. Maryland ('08 p.1503) appointed a committee to confer with Virginia to further deferred concurrent legislation already agreed upon concerning oyster fisheries. (Oregon ('07 p.523) provided for a joint investigation with the state of Washington, of the Columbia river fisheries, to report in 1909.

**New commissions and hatcheries.** North Carolina ('07 ch. 977) created the office of Fish Commissioner, with a salary (\$900), and paid deputies. He is charged with the enforcement of all the fisheries laws save those relating to shellfish, may arrest without warrant and may take fish for fish culture or scientific purposes. License fees are required for fishing gear and the revenue, together with fines collected, constitutes a fish commission fund. Montana ('07 ch. 176) created a fish commission of three members without salaries. This is new only in form, a similar organization having previously existed. Minnesota ('07 ch.275) provided for the establishment of its third fish hatchery (\$6000). Idaho ('07 p.299) appropriated \$15,000 for a fish hatchery.

**Spawn from commercial fish.** Illinois ('07 p.332) required that all sail or power boats fishing for whitefish or trout on spawn-

ing grounds in its Lake Michigan waters have from October 15 to November 15 one spawn taker aboard, whose duty it is to gather and impregnate the eggs of these fish, the product to be either turned over to State Fish Hatcheries or planted in the lake.

This law marks a departure of significance. Commercial fishing frequently takes fish with the ripe reproductive elements, and the state and federal hatcheries secure large supplies of fertilized eggs by arrangement with fishermen. This law appears to be the first making compulsory the utilization of the spawn incidental to commercial fishing.

**Licenses.** Oregon ('07 ch.55) taxed the canning industry by requiring license fees. The industry is divided into 25 classes according to the size of the pack and the fee graduated accordingly. The fish trade other than canning is likewise taxed, 30 classes being recognized. Wisconsin ('07 ch.130) required licenses for seines and nets, the fee proportionate to the amount of gear. Licensees must give bond with two sureties. In Florida ('07 ch. 73) nonresidents must obtain a license to catch fish with nets, or to bring fish into the state for sale or shipment (\$10) or to carry on a fish-dealing business (\$300). In Illinois ('08 p.83) nonresidents must procure a license (\$50) to take mussels by the use of boats and ('07 p.332) fishing boats in Illinois waters of Lake Michigan must be licensed (\$10-\$25). New Hampshire ('07 ch.117) on the other hand entirely forbids nonresidents from taking conchs ("wrinkles" or cockles) except for the use of residents.

North Carolina ('07 ch.977) levied a license tax on all gear used to catch fishes.

**Initiative and referendum.** The depletion of the Columbia river salmon fisheries led to a proposal by initiative petition, at the instance of the many persons interested in the lower river fishery, carried on mainly by nets and traps, to abolish the fishing in the upper river within the state above the head of tide, carried on by stationary fish wheels, an efficient automatic device in the hands of a few salmon packers. A natural and inevitable conflict exists between these two interests, and a second initiative petition was filed by the upper river contingent, proposing various restrictions on the lower river, amounting in their combined operation to a nearly complete prohibition of fishing in the lower river on the Oregon side. The two bills being referred to the people at their general election, June 1, 1908, both were passed and became laws.

The case was complicated by a conflict of state jurisdiction, resulting in court orders restraining the officials from enforcing the two laws, which were subsequently repealed by the Legislature.

Whatever the value of the initiative and referendum principle its usefulness is not attested by this attempt to apply it to legislative conservation of fisheries.





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REVIEW OF LEGISLATION 1907-8

LEGISLATION 399

**GAME PROTECTION**

T. S. PALMER, BIOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF AGRICULTURE

The years 1907 and 1908 cover a period of exceptional activity in game legislation. Measures were under consideration in practically every state and territory and changes in the laws were made in all the states but six. Owing to the failure of bills no amendments were adopted in Arizona, Nevada or North Dakota in 1907 or in Kentucky, Mississippi or Oklahoma in 1908. Including local acts the total number of laws was more than 250, of which nearly 190 were passed in 1907 and 69 in 1908. The actual number of game laws comprised a little more than one per cent of the entire number of acts and resolutions passed on all subjects. The chief progress was in the general adoption of the license system and the strengthening of the warden service in several states. Restrictions were made with a view to securing greater protection, and a number of novel ideas were suggested to accomplish the desired object. A potent factor in aiding the passage of new laws, and at the same time an index of the general interest in game legislation, is the attention given the subject in messages of the Governors.

**Governors messages**

Direct recommendations for the improvement of game laws were made in the messages of nine Governors in 1907 and in those of four in 1908. Not all of these suggestions were acted upon favorably, but the more important ones were incorporated in laws and some of the others are likely to receive attention in the future. The principal suggestions which were adopted were those of the Governor of Alabama (Jan. 8, '07, p.25) for the enactment of a comprehensive game law, and those of the Governor of New York for the revision of the laws and the adoption of a code which should

be fairly permanent (Jan. 1, '08, p.24). For many years Alabama had suffered from a multitude of local game laws which were not restricted until the adoption of the new constitution in 1901. New York had likewise been burdened at every session of the Legislature with a much larger number of amendments than seemed either desirable or necessary.

The license system formed the subject of recommendations of the Governors of New Mexico (Jan. 21, '07, p.40), Utah (Jan. 15, '07, p.23), Louisiana (May 12, '08, p.55) and Ohio (Jan. 6, '08, p.22), but only in Utah and Louisiana were these recommendations carried into effect. In Florida (Apr. 2, '07, p.51), New Hampshire (Jan. 3, '07, p.14) and Maryland (Jan. 1, '08, p.38) suggestions were made regarding the warden system. More effective protection for game birds was recommended in Pennsylvania, South Dakota and North Carolina. The Governor of South Dakota made a strong plea for better protection of prairie chickens, and suggested open seasons for quail and prairie chickens in alternative years (Jan. 8, '07, p.41). The Governor of North Carolina indorsed the recommendation of the Audubon Society for greater uniformity in the county laws fixing the open seasons for hunting game birds (Jan. 9, '07, p.23). This last recommendation, only partially successful, was in line with those of the executives of Alabama and New York with a view to accomplishing a much needed reform in simplifying the game laws.

### Legislation

**General.** Four states, Alabama, Missouri, Texas and Utah, adopted entire new game laws in 1907, and two, New York and Ohio, codified their laws in 1908. Some of these statutes, particularly those of Alabama and New York, are very comprehensive, but in both cases they were supplemented during the year, in Alabama in the general codification of the statutes (Crim. Code, § 6954-82), and in New York by a supplementary act ('08 ch.471) passed shortly after the codification bill. Provisions for enforcement were made by the establishment of state game commissioners or wardens in Alabama, South Carolina and Texas in 1907, and in Louisiana in 1908. In Alabama a Game and Fish Commissioner was provided; in Texas the office was created by extending the duties of the Fish and Oyster Commissioner and providing a deputy to take charge of game matters; in South Carolina the duties were intrusted to the State Audubon Society ('07 ch.315), as in North



Carolina; and in Louisiana by the appointment of a board of three members with headquarters in New Orleans. In Michigan forestry was added to the duties of the Game and Fish Warden with an increase in salary from \$2000 to \$3000; in Montana the warden was made *ex officio* fire warden and member of the Board of Fish Commissioners with an increase from \$2000 to \$2400, and in Texas the new duties of the commissioner carried an increase in salary from \$1800 to \$2500, while the chief deputy received \$1800. The force of deputies was also augmented in several states. In Illinois the number of district wardens was increased to 16; in Michigan 10 more district deputies were appointed; in Montana four additional district wardens; and in New York the number of protectors was increased from 65 to 75. Under the new Alaska game law (U. S. '08 ch.162, May 11) the Governor was authorized to appoint wardens and establish regulations for the registration of guides on the Kenai peninsula.

**Licenses.** Notable progress was made in the extension of the license system. In 1907 five states, two in New England, Connecticut and Rhode Island, two in the South, Alabama and Texas, and one on the Pacific coast, California, adopted hunting licenses for the first time, and in 1908 Congress provided a system of alien non-resident and shipping licenses for Alaska and authorized the Governor to register guides on the Kenai peninsula (U. S. '08 ch.162, May 11). In Connecticut ('07 ch.153), Alabama ('07 p.81) and California ('07 ch.206) the system was complete, including licenses for aliens, nonresidents and residents. In Rhode Island ('07 ch.1456) nonresident, and in Texas ('07 ch.137) alien and nonresident licenses only were provided. In several other states the license system was extended as follows: by the adoption of alien licenses in Maine ('07 ch.118), New Hampshire ('07 ch.36), South Carolina ('07 ch.315) and Utah ('07 ch.118) in 1907, and in New Jersey ('08 ch.76, 243) and New York ('08 ch.130) in 1908; by the addition of nonresident licenses in Massachusetts, and resident licenses in Tennessee and Utah in 1907, and in Louisiana, Massachusetts, New York and Vermont in 1908. Michigan and Wyoming established bird licenses. South Carolina established a county license ('08 ch.499) in addition to its state license. Missouri changed its state license to a county license ('07 p.277). Tennessee provided a graduated license for game dealers and an optional license for residents hunting with verbal permission on lands where ordinarily written consent was required ('07 ch.185). In Louisiana and New

York the fees required of nonresidents were increased, and in the latter state alteration or loan of a license was made forgery.

As a result of this legislation alien licenses were required in 17 states and territories, resident licenses in about half the states, and nonresident licenses throughout the United States except in Arkansas, Georgia, Nevada, New Mexico and Oklahoma.

**Traffic in game.** Among the numerous acts regulating possession, shipment and sale, a few deserve mention on account of their novelty or importance. Kansas prohibited the sale of undrawn poultry or game ('07 ch.187), Michigan prohibited transportation companies from receiving game more than 48 hours after the close of the season ('07 ch.235) and Wisconsin required shipments of game to be labeled with the name and address of the shipper and the consignee and the number of each kind of game. Nebraska ('07 ch.60) prohibited sale of all game, while Missouri permitted sale of imported game during open season and of domestic game in county of capture, but penalized the sale under a false name ('07 p.277). Vermont permitted game from private preserves to be sold at any time ('06 ch.157) and Massachusetts authorized the Commissioner of Fisheries and Game to grant permission to any landowner to shoot pheasants raised by him ('08 ch.477). New Jersey permitted game shipped from a foreign country to be kept during the close season under permit from the Fish and Game Commissioner ('08 ch.281) and South Carolina prohibited sale of quail until 1912 ('08 ch.499).

**Big game.** The amendments of 1907 affecting big game took the form chiefly of changes in season or securing greater protection. Arkansas ('07 ch.43) made provision for possession and sale of deer raised in captivity, while Connecticut ('07 ch.218) and Massachusetts ('07 ch.307) permitted the killing of deer injuring crops. New Hampshire ('07 ch.130) opened the season in the southern part of the State but permitted hunting only with shot-guns. Montana lengthened the deer season 15 days, New York opened it two weeks earlier, and Oregon one month earlier, so that the opening date in the last named state conformed with that in California. Maine ('07 ch.181) limited the lumber camps to the use of six deer a season and Wisconsin ('07 ch.259, 311) reduced the number of deer which could be killed or shipped by nonresidents from two to one. Pennsylvania ('07 no.61) provided complete protection for does and fawns. In the case of other big game California ('07 ch.365) made killing an elk a felony punishable by



two years imprisonment, Wyoming ('07 p.196) memorialized the Order of Elks to discourage the use of elk tusks as emblems and Wisconsin ('07 ch.259) protected moose throughout the year. Retrograde legislation occurred in Colorado and Missouri, which removed protection from does and fawns, and in Montana, where the season was opened on antelope for three months.

In 1908 Kansas ('08 ex.sess. ch.59) extended the close term on antelope and deer for 10 years, Georgia ('08 p.99) lengthened the open season on deer six weeks, Massachusetts ('08 ch.377) restricted the killing of deer injuring crops to farmers and members of their families or to persons acting under their direction and Virginia made the open season for deer one month earlier.

**Game birds.** Of the many changes affecting game birds only a few of the more important need be mentioned. Colorado ('07 ch.50) appropriated \$2000 for the importation of grouse and provided a close season of five years for them. Connecticut provided a close season for woodcock, quail and partridge until 1912 ('07 ch.70), and prohibited spring shooting of shore birds ('07 ch.71) and waterfowl ('07 ch.72). Wisconsin also prohibited spring shooting, New Hampshire ('07 ch.52) made a close season for wood duck, killdeer and upland plover until 1912, and Kansas ('07 ch.218) and Michigan ('07 ch.311) provided complete protection for six and five years, respectively, for the Hungarian partridge, which was beginning to be imported in large numbers for restocking purposes. The South Dakota law ('07 ch.158), making a close season on quail until 1912, is particularly interesting as illustrating how the referendum can be invoked to defeat the will of the Legislature. This law was submitted to a vote in November 1908, and although adopted it did not, of course, go into effect during the open seasons of 1907 or 1908. Among the striking examples of retrograde legislation are the statutes of Michigan ('07 ch.170) extending the spring shooting of waterfowl four weeks, and of Pennsylvania ('07 ch.57) opening the season until April 10.

In 1908 Massachusetts ('08 ch.441) adopted a uniform open season of one month for woodcock, quail and partridge.<sup>1</sup> New Jersey prohibited spring shooting in the northern section of the state ('08 ch.94); New York in connection with her codification of the

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<sup>1</sup> A bill to make a uniform season for *all* game (House 513) failed to pass, but it is interesting to note that the same principle underlying this measure was adopted by Michigan in 1869 and by Montana in 1905 ('05 ch.52).



Forest, Fish and Game Law protected the wood duck indefinitely ('08 ch.130 §87) and Rhode Island ('08 ch.1582) prohibited spring shooting of shore birds.

**Nongame birds.** Important progress was made in the protection of nongame birds although the total number of statutes was small. Alabama ('07 p.81), South Dakota ('07 ch.159) and West Virginia ('07 ch.57) all adopted the so called model law. Massachusetts provided additional protection for loons and eagles ('07 ch.118), protected gulls at all times ('07 ch.99) and in 1908 established the office of State Ornithologist with a salary of \$500 per annum ('08 ch.245). Retrograde legislation was enacted in California in the exemption from protection of fish-eating birds, and in Virginia ('08 ch.176) of doves, hawks, owls and eagles.

**Novel features.** Among the more novel features should be mentioned the legislation prohibiting the use of automatic guns for hunting game. Pennsylvania in 1907 was the first state to adopt such a law, but similar acts were passed in New Brunswick and Ontario. Widespread efforts were made to pass such laws elsewhere, but the bills introduced in 16 other states, Connecticut, Georgia, Illinois, Indiana, Iowa, Maine, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Oregon, Rhode Island, Texas and Washington all failed, chiefly through the efforts of the gun manufacturers.

The severe forest fires in several of the northern states in the summer of 1908 resulted in a new feature in the Vermont laws ('08 no.13), namely, in authorizing the Governor in times of drought to suspend the hunting season when the presence of hunters in the woods might cause fire. Massachusetts ('08 ch.377) required that any one killing a deer injuring crops must deliver the carcass the same day to the city or town clerk. Alabama in 1907 adopted an innovation in warden service by making the office of game commissioner elective, in strong contrast to the custom in all the other states where provision is uniformly made for appointment by the Governor of state commissioners or wardens.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 391

EDUCATION

EDWARD C. ELLIOTT, UNIVERSITY OF WISCONSIN

**General<sup>1</sup>**

The educational legislation during the biennial period, October 1, 1906 to October 1, 1908, was noteworthy, not only on account of volume, but also from the standpoint of the important educational issues which were brought to the fore. The total number of laws and resolutions enacted during the period under consideration, and indexed by the New York State Library was 9926. Of this number 700 were either new laws or amendments to existing laws relating to the state public school systems, excluding general appropriation acts and measures having merely a private, temporary, or minor local application. It is a matter of common observation that questions of educational moment have, more and more, come to be regarded as objects of primary concern in the Legislatures of all of the progressive states of the nation. The analysis of the educational legislation enables the determination of many of the more significant tendencies of our social progress.

While it is customary to regard federal legislation as having but a very remote relationship to the expansion and progress of education at large in the United States, the real extent of educational activities of the several departments and bureaus of the federal government is well exhibited in a recent summary of the laws relating to education enacted during the first session of the 60th Congress.<sup>2</sup> The appropriations in behalf of education, including the

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<sup>1</sup> For a complete classified digest and critical review of legislation and judicial decisions relating to public education, 1906-8, *see* Elliott, *State School Systems* (U. S. Bur. of Educ. Bulletin, 1908 No. 7). *See also* *Digest of Governors Messages*, 1907 and 1908.

<sup>2</sup> *See* Chapter on Recent Educational Legislation. U. S. Com'r Educ. An. Rep't 1908, p. 109-21; and also p. 82-87.

continuing appropriations for colleges of agriculture and mechanic arts (\$1,750,000); for agricultural experiment stations (\$1,405,645.64); and for education in the District of Columbia (\$1,430,500.50), amounted to \$14,544,473.32.

Notwithstanding the absence of direct federal participation in the control of public education, these millions annually paid seem to be justification for regarding congressional action as an already active factor in the support and development of particular and special educational activities of no small significance to the country as a whole. Recent events would seem to indicate that the federal government, through Congress, is likely to become a large and direct influence upon the general educational system. The advocates of industrial education succeeded in having introduced during the 59th Congress and again during the first session of the 60th Congress a number of bills providing for the promotion of instruction in agriculture, mechanic arts, and domestic economy, through federal aid. The two most comprehensive of these bills were those introduced during the 60th Congress by Representative C. R. Davis, of Minnesota, H. R. 534, providing for the establishment of agricultural high schools and for instruction in mechanic arts and domestic economy in city high schools, and H. R. 18204, making similar provisions, but providing also for the maintenance of normal instruction in agriculture, home economics, and mechanic arts, in state and territorial normal schools. In this connection it is pertinent to note the passage in Wisconsin ('07 p.1295), of a resolution memorializing Congress "to bring about an amendment to the federal constitution empowering Congress to pass proper legislation establishing a harmonious system of education, and to establish and maintain conjointly with the states a national system of education"; the passage in Georgia ('07 p.994) of a resolution urging the passage of the Davis bill (H. R. 24757) introduced during the 59th Congress providing for federal aid to industrial education; and a somewhat similar resolution of the Utah Legislature ('07 p.275).

The century old movement for the establishment of a National University was given new life during the first session of the 60th Congress by the introduction of a bill, prepared by a committee of the National Association of State Universities, providing for the establishment "at the seat of the federal government of the United States, an institution of higher education to be known as the National University of the United States."



### Organization and administration

**General.** Probably the most distinctive group of enactments of the period is made up of those establishing commissions for the purpose, either of a general revising of the educational code, or of formulating recommendations relative to particular modifications and reorganizations of the educational system of the state. This movement for the creation of special educational commissions is an excellent illustration of the partial recognition of the important distinction between the *making* of law, and the *enacting* of law; a distinction which must be accepted more and more widely, if the large public activities like education, are to be controlled and developed under a legal sanction, in the making of which the influence of the merely fortuitous, sectional, or personal elements have been reduced to a minimum. The movement affords encouragement for those who have a firm confidence in the capacity of democracy to submit institutions to the guidance of the expert.<sup>1</sup> The spirit of this movement for a better adaptation of the educational organization to modern needs is well indicated by the duties assigned to the Illinois commission "to make a thorough investigation of the common school system of Illinois, and the laws under which it is organized and operated; to make a comparative study of such other school systems as may seem advisable and to submit to the 46th General Assembly a report, including such suggestions, recommendations, revisions, additions, corrections and amendments as the commission shall deem necessary."

Of the class of general educational commissions may be mentioned that of Illinois ('07 p.24); Iowa ('07 ch.222); Kentucky ('08 ch.65); Pennsylvania ('07 ch.140); and Washington ('07 ch.141). While not of legislative creation, the Educational Commission of Kansas, appointed by the Governor in compliance with the request of the State Teachers Association, may also be considered here. North Dakota ('07 ch.102), provided for a revision and compilation of school laws by the attorney-general, and for a

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<sup>1</sup> As a matter of fact, however, the events of the legislative sessions of 1909 would indicate that democracy as represented in state Legislatures was not yet prepared to accept the judgment of the expert, as expressed through the reports of the educational commissions. In Illinois, Iowa and Pennsylvania, the recommendations of the commissions were, with a few minor exceptions, rejected by the Legislature. The enmeshment of educational issues in the web of political partizanship was undoubtedly the chief cause of this negative result. Perhaps, too, the educational expert was not enough of an expert—in human nature.

report to the Legislature of 1909. Tennessee ('07 p.2237), created a joint legislative committee to report on legislation with reference to a uniform system of public schools.

In addition to these general commissions others for special purposes were created in several states. The chief ones of these were, that of Connecticut ('07 sp. laws p.557 res.), to investigate the public school system of the state, that in Maryland ('08 ch.367), to make inquiry and report concerning industrial education, that in New Jersey ('08 p.735 res.), to inquire into and report upon the subject of promoting industrial and technical education, and that in Virginia ('08 ch.272), to devise a stable and systematic method for the maintenance, management, and expansion of the higher educational institutions. Nevada ('07 ch.182), New Mexico ('07 ch.97), South Dakota ('07, ch.135) and West Virginia ('08 ch.27), effected general or partial revisions of the public school code. Pertinent to the subject of general organization is the new constitution of Oklahoma (adopted September 17, 1907), and also that of Michigan (adopted November 3, 1908), the educational provisions of both of which are not without significance.

**State boards and officers.** The movement for a better administration and a more effective professional inspection and supervision of the State common school systems, through increased compensation for the State Superintendent of Public Instruction, continues to be forwarded by the measures passed in Arizona ('07 ch.67); Louisiana ('08 ch.28, constitutional amendment, adopted, Nov. 1908); Maine ('07 ch.171); Mississippi ('08 ch.145); Montana ('07 ch.116); Pennsylvania ('07 ch.71); Utah ('07 ch.92); Virginia ('08 ch.284, p.431) and Washington ('07 ch.94). Paralleling this is a very noticeable tendency to provide for increased sums for clerical expenses of the office of State Superintendent and for a larger number of, and better compensation for assistants, deputies and inspectors.

Among the important legislative items relating to state educational boards were the following: The creation of a State Board of Education in West Virginia ('08 ch.27); the proposal (defeated November 1908), of a constitutional amendment in California ('07 p.1369) relative to the constitution of the State Board of Education, so as to permit of a wider representation of the several educational interests of the state; the establishment of a state school committee in Utah ('07 ch.57), to prescribe courses of study for schools outside of cities; and the organization of state textbook



commissions in Idaho ('07 p.476) ; Montana ('07 ch.132) ; Nevada ('07 ch.112) ; Oklahoma ('08 ch.77, art.8) and Texas ('07 ex. sess. ch.9).

The decision of the Supreme Court of Maryland (*Underwood v. Board of County School Commissioners of Prince George County*, 63 A. 221 ; 103 Md. 181), with reference to the power of the State Board of Education, as well as the decisions of the Court of Appeals of New York, with reference to the power of the Commissioner of Education (*O'Connor v. Hendrick*, 77 N. E. 612 ; *Harris v. Draper*, 109 N. Y. Supp. 983), tended to dignify the authority and responsibility of these officers.

**County boards and officers.** The growing general interest for the betterment of the country school expressed itself in a number of enactments which aim to improve administrative and supervisory agencies. Three lines of effort may be distinguished: First, the raising of the standard of professional qualifications of the county superintendent of schools (Kan. '07 ch.167), (La. '08 ch.49, parish superintendent), (Minn.<sup>1</sup> '07 ch.480, N. Mex. '07 ch.97, N. D. '07 ch.95, Va. '08 ch.292), and the increasing of the compensation for this office, (Fla. '07 no.61 and 63, Minn. '07 ch.33, Mo. '07 p.432, N. D. '07 ch.105, S. C. '07 no.270, Va. '08 ch.292) and W. Va. '07 ch.58). Second, the adoption and extension of the principle of the county as the basal unit for educational organization and administration in Kentucky ('08 ch.56), North Carolina ('07 ch.820) and Tennessee ('07 ch.236). Arkansas ('07 ch.399) and Texas ('07 ch.111), adopted a permissive plan of county supervision. On the other hand, Nevada ('07 ch.182) reorganized the system of administration by abolishing the office of county superintendent, and by dividing the state into five districts, each of which should be under the supervision of a deputy state superintendent. Third, the organization of the so called county school board conventions in Oregon ('07 ch.35) and in Washington ('07 ch.163). The enactments of these two states increase to seven (S. D., Minn., N. D., Penn. and Wis.) the number of states that have established annual meetings of the officers and members of district school boards, with the significant provisions of obligatory attendance and nominal compensation.

**Local (district, township and municipal) boards and officers.** Aside from the several special acts relative to the partial or complete reorganization of the education systems of some of the

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<sup>1</sup> Proposing constitutional amendment ; defeated, November 1908.



medium sized cities, Alameda (Cal. '07 ex. sess. ch.7, art.6), Augusta (Me. '07 ch.416-*spec.*), Bridgeport (Ct. '07 ch.461-*spec.*), Cambridge (Mass. '07 ch.566-*referendum*), Syracuse (N. Y. '07 ch.543), Knoxville (Tenn. '07 ch.207), Nashville (Tenn. '07 ch.400), San Antonio (Tex. '07 ch.29-*spec.*) and Dallas (Tex. '07 ch.71-*spec.*), the legislation affecting local administration and organization contains little of general interest. Owing to the declared unconstitutionality of the act of 1905 (*State v. Lindermann*, 111 N. W. 214), Milwaukee received a new school board act (Wis. '07 ch.459). Two measures passed in Ohio ('08 p.322, creating a service fund equal to five cents for each child enrolled in the public schools; and '08 p.105, providing for compensation of members of township boards of education), represent a noticeable departure from almost a country-wide plan of unpaid school boards. The supreme court decisions in Arkansas (104 S. W. 130), Massachusetts (80 N. E. 650), New York (72 N. E. 97), North Carolina (49 S. E. 46), Ohio (81 N. E. 568) and Pennsylvania (64 A. 419; 67 A. 56), affirming the rights of local boards of education to demand that children be vaccinated as a condition for entrance to the public schools (*contra*, Ill. 84 N. E. 1046), and also the decision of the Supreme Court of Illinois (84 N. E. 697), upholding the regulation of the Chicago Board of Education prohibiting high school fraternities are of more than passing significance in the affairs of local school control.

It is not inappropriate to include at this point mention of the act of the Missouri Legislature ('07 p.427) extending the tenure of office of local school superintendents, and that of the Rhode Island Legislature ('08 ch.1560) requiring superintendents to hold certificates of qualification of State Board of Education.

**Local (district, township and municipal) units for administration.** The legislative efforts to raise the efficiency of public schools in nonurban sections, through the better administration and supervisory organization resulting from the consolidation of school districts and the centralization of schools were far more noticeable several years ago than now. Most of the measures concerned with these questions during the biennium 1906-8 sought in general to improve the details of the methods already devised, so as to remove the administrative and legal obstacles that had developed, and to secure more favorable conditions for the development of the consolidated and the centralized school. Arizona ('07 ch.88) authorized consolidation of school districts; Minnesota ('07 ch.304)

provided, under conditions, for state aid for consolidated rural schools; West Virginia in the new school code ('08 ch.27) incorporated several important sections calculated to stimulate the organization of consolidated school districts; Kansas ('07 ch.322) redefined a depopulated school district as one having fewer than five legal voters and fewer than seven persons between the ages of 5 and 21 years, and a partially depopulated school district ('07 ch.323) as one having less than 12 persons between the ages of 5 and 21 years.

### Finance and support; lands

In the legislative annals of public education the chapters dealing with the means, method and extent of support of the several grades of public schools have always been conspicuously prominent. The American school as a distinctly state institution, the democratic dependence of public education upon the people, the changing conceptions of the function of the school and the specific directions of educational progress are always more or less closely revealed by the various financial considerations accorded education through legislation. The establishment of new forms of special state aid, and the extension of the application of old forms, especially for elementary and secondary schools, represent an unmistakable tendency to constitute the state as the responsible unit for the financial support of education. Here, better perhaps than at any other point, the half conscious ideal of educational equity, not only as to individuals, but also as to communities, presents itself as a potent force in shaping the practices and organization of the commonwealth's system of public schools. Alabama ('07 p.238), Connecticut ('07 ch.135, 216, 259), Florida ('07 no.58, 59, 62), Maine ('07 ch.101), Minnesota ('07 ch.304), Nebraska ('07 ch.119), New Hampshire ('07 ch.115), Ohio ('08 p.523), Tennessee ('07 ch.537), Utah ('07 ch.24), Vermont ('06 ch.53), West Virginia ('08 ch.9), Wisconsin ('07 ch.375, 553, 600) passed measures extending new or additional aid to elementary schools, in the great majority of instances the schools of rural communities alone being affected. Special state aid to secondary schools continues to be recognized in new and in progressive states as an effective means for the stimulation of the growth of larger educational opportunities for the mass of the people. The following recent enactments call for special mention: Alabama ('07 p.728), Florida ('07 no.58), Maryland ('08 p.227), Mississippi ('08 ch.102), North Carolina ('07 ch.820), North Dakota ('07 ch.99), South Carolina ('07 p.518),



Vermont ('06 ch.50), Virginia ('08 p.431), West Virginia ('07 ch.70) and Wisconsin ('07 ch.503, 527, 571).

Careful study of the numerous appropriation acts of the different state Legislatures, with few exceptions, indicates a very general and widespread response to the expanding needs of not only higher and special institutions, but of the common school system as well. The latter situation is represented by typical measures increasing the rate of state taxation for general educational purposes; Arkansas ('07 ch.189), Indiana ('07 ch.249), Maine ('07 ch.111), Nevada ('07 ch.182), Texas ('07 ch.66), Utah<sup>1</sup> ('07 p.272), Washington ('07 ch.102).

The Legislatures of the Mississippi valley and farther western states, in particular, continued to devote considerable attention to the question of the school lands. While in general the three-score new and amended laws are of minor importance, as a group they are characterized by establishing additional safeguards around the land endowment of public education so as to reduce the dangers of loss from unwise disposal. Of somewhat more than incidental interest are the provisions of the Constitution (1907) and the other measures in Oklahoma ('08 p.484, 490, 662), concerning state aid and school lands. The forest reserve act of Congress (June 30, 1906) resulted in a number of laws providing that sundry proportions of the forest funds reverting to the state should go into the public school funds: California ('07 ch.277), Idaho ('07 p.162), Montana ('07 ch.127), Nebraska ('07 ch.143), Nevada ('07 ch.191), Oregon ('07 ch.160), Utah ('07 ch.145), Washington ('07 ch.185), Wyoming ('07 ch.7).

The details of the management and the conservation of the permanent school fund were subjects of more or less legislative concern. Vermont ('06 ch.54) provided for the management, investment and distribution of the permanent school fund created in 1904 (ch.42). Oklahoma ('07 ch.76, art.1) provided for the care of the fund of \$5,000,000 appropriated by the act of Congress (U. S. '06 ch.3335, § 7) for the use and benefit of the common schools, in lieu of sections 16 and 36, and other lands in Indian Territory. Nebraska ('07 ch.201) and North Dakota ('07 p.456) each proposed constitutional amendments relative to the investment of educational funds.

The legislative measures relating to local educational finance fall naturally into three groups: (a) those of a general nature, con-

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<sup>1</sup> Proposed constitutional amendment, defeated November 1908.



cerned chiefly with the management of educational funds by local officials, with a noticeable tendency, however, to require more careful auditing and a greater publicity of the financial affairs of local public school systems; (b) those relating to the creation and payment of bonded and other forms of indebtedness incurred for educational purposes; very numerous, and for the most part, special in character, and indicative of the increasing pressure being developed by reason of the constantly growing demands, both qualitative and quantitative, made upon the public schools; (c) those relating to county, district and municipal taxation for school purposes; important to the extent to which the authorized limit of taxation has been modified. Arkansas ('07 ch.189), Idaho ('07 p.304), Indiana ('07 ch.237), Kansas ('07 ch.318, 330), Kentucky ('08 ch.61), Louisiana ('08 ch.27), Maine ('07 ch.111), Minnesota ('07 ch.308), Montana ('07 ch.51), New Jersey ('08 ch.182), Ohio ('08 p.519), Oklahoma ('08 ch.77, art.4), Oregon ('07 ch.99), Texas ('07 p.413), Utah ('07 ch.89), Virginia ('08 ch.210), Washington ('07 ch.163), West Virginia ('07 ch.70). The creation of local tax district schools in Georgia ('05 p.425, '06 p.61, '07 p.100) and the judicial interpretation of the legislation thereon (56 S. E. 284; 58 S. E. 846) are steps in the development of sentiment in the Southern States for increased local support for common schools.<sup>1</sup>

### Buildings and grounds

One may, without difficulty, read into the somewhat numerous measures relating to the increase of funds and bonds for school buildings, sites and equipment, and to the procedure for the acquirements of sites for school purposes, a widespread effort better to meet the material necessities of the public schools, constantly increasing under the new standards of educational efficiency and under the conditions brought about by the rapid concentration of urban population.

Considerably more importance may be attached to the several measures which seek to secure a more efficient hygienic and economi-

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<sup>1</sup> No law affecting the educational systems of the state, passed in recent years, has provoked wider discussion, created more annoyance or done more good. The discussion alluded to has arisen from the many questions of a doubtful nature springing out of its practical application; the annoyance from the breaking up of old school sites, the changing of district lines, and the consequent formation of new school centers; and the good from the impulse given to the consolidation of schools and the stimulus to local taxation. The discussion and the annoyance is the price we have had to pay for its very substantial benefits. *Georgia School Report*, '07, p. 10

cal planning of school buildings, especially those in rural districts. The continued tendency of such laws, the most important of which are those of North Dakota ('07 ch.96), Tennessee ('07 ch.234), Virginia ('08 ch.82), Virginia ('08 ch.187), Washington ('07 ch.163) and Wisconsin ('07 ch. 425), is toward a desirable centralization of supervisory control of the erection of buildings for school purposes, through the approval of building plans by competent state educational officers. The authority of the state is slowly but surely being extended so as to provide for the cleanliness and to insure the sanitary safety of schoolhouses.

The measure in Indiana ('07 ch.218), relative to the employment and payment of janitors; that in Pennsylvania ('07 ch.240) and that in Virginia ('08 ch.187) providing for the better heating, ventilation and sanitation of school buildings; those in Wisconsin ('07 ch.232), compelling school boards to maintain suitable outbuildings, and ('07 ch.600) providing for special state aid to certain rural schools, fulfilling specified conditions, among others as to proper heating and ventilation of buildings; and that of Massachusetts ('07 ch.537) relative to the inspection of school buildings by State Inspectors of Health, are typical of current tendencies.

The presence of enactments in the legislation of several states, California ('07 ch.225), Indiana ('07 ch.253), Kansas ('07 ch.319), Maine ('07 ch.182), Oregon ('07 ch.37), Tennessee ('07 ch.480) and Utah ('07 ch.32), with reference to the display of the United States flag on public schools is in part the response to that abiding American ideal that the public schools should be made the instrumentalities for the development of loyalty, patriotism and nationalism.

The Collinwood school disaster of 1908 resulted in the passage by the Ohio Legislature of a comprehensive act ('08 p.232) concerning the inspection and protection of public school buildings from fire. Similar in intent were the measures passed in Louisiana ('08 ch.73), Maine ('07 ch.82), Oklahoma ('08 ch.38) and Rhode Island ('08 ch.1536).

### Teachers

The preparation, status, efficiency and compensation of teachers were conspicuous objects of legislative attention during the bien-nium. The noticeable tendencies of the very considerable volume of legislation may be summarized briefly as follows: (1) The continuation of the process of centralizing the right of examination and the powers of certification of teachers in state boards and officers



(Nev. '07 ch.182, N. C. '07 ch.835, Wy. '07 ch.65), and the centralization of the administration of state institutions for the training of teachers (Or. '07 ch.189); (2) the elevation of the standards of qualification of teachers, of which the Indiana measure ('07 ch.101), requiring a minimum of high school graduation and 12 weeks of special professional preparation for all teachers in public schools, is the most advanced and progressive; (3) the increase in the facilities for the professional training of teachers, through (a) institutions established on a collegiate basis (Ky. '08 ch.5, N. D. '07 ch.100, Tenn. '07 ch.19), (b) new state normal schools (Ala. '07 p.327, 656, Ark. '07 ch.317, Ga. '06 ch.449, Ky. '08 ch.62, Md. '08 ch.599, N. C. '07 ch.820, N. D. '07 p.453, Va. '08 ch.284, p.428), (c) provisions and state subsidies for special normal training in high schools (Neb. '07 ch.129, Va. '08 ch.67), (d) the extension and increased support and recognition of institutes and summer schools; (4) the recognition of education and training in higher and special institutions as the basis for legal qualification for teaching (Ark. '07 ch.317, Id. '07 p.255, Ia. '07 ch.148, Ky. '08 ch.5, La. '08 ch.93, 174, Md. '08 ch.635, Mich. '07 ch.112, Neb. '07 ch.123, Tex. '07 ch.68, Utah '07 ch.42, W. Va. '08 ch.24, 25); (5) the extension of the policy of interstate reciprocity in the matter of teachers' certificates (Ia. '07 ch.149, Mich. '07 ch.125, Wash. '07 ch.240); (6) the establishment and upward revision of minimum salary schedules (Ind. '07 ch.101, Pa. '07 no.249, W. Va. '08 ch.26, Md. '08 ch.635, N. C. '07 ch.820, 835); (7) the authorization of the establishment of retirement funds, either for the state as a whole (R. I. '07 ch.1468, Utah '07 ch.111, Va. '08 ch.313) or for certain specified cities or groups of cities (Ind.—Indianapolis—'07 ch.170, Md.—Baltimore—'08 ch.78, Mass. '08 ch.498, Mass.—Boston—'08 ch.589, Pa. '07 no.169, Wis.—Milwaukee—'07 ch.453, N. Y.—Elmira—'07 ch.86,—Schenectady—'07 ch.306, '08 ch.116,—Albany—'07 ch.414). The statutory provisions concerning the teachers' retirement fund in Chicago (Ill. '07 p.529) in New York city (N. Y. '07 ch.167), in Charleston (S. C. '07 ch.335), and in New Jersey (N. J. '07 ch.139) were also amended in a number of particulars. Louisiana ('08 ch.219) and Massachusetts ('08 ch.138) belong to the first group of states authorizing the acceptance of the benefits of the Carnegie Foundation.

The following measures may be indicated as typical of special movements: Granting to state normal schools power to confer degrees (Ill. '07 p.522, 524, 527); creating a special commission for investigation and report upon status and equipment of normal



schools (Vt. '06 p.770 res); establishing a normal department in state agricultural college (Mass. '07 ch.28); providing for the revocation of certificates of teachers violating contracts (N. D. '07 ch.104); authorizing extension of tenure of principals and superintendents to two years (Mo. '07 p.427); prohibiting school boards from dismissing teachers without hearing (N. C. '07 ch.835).

### School attendance

The last biennial instalment of the long continued story of compulsory education, child labor and juvenile delinquency legislation contains numerous paragraphs that justify encouragement in the belief that at no distant day all of the members of the American federal commonwealth will succeed in guaranteeing to their children a minimum of education, a just protection from an overload of labor and a safeguard from the influences of nonsocial agencies.

Generally speaking, the tendencies in the northern and western states as regards school attendance, have been to widen the age limitations (so as to include the period 8 to 16) to increase the length of the period of annual school attendance, to require certain degrees of educational advancement as an essential condition for exemption from attendance, to give to school officials far greater authority in the determination of what constitutes satisfactory compliance with the law, and to bring defective children (deaf, dumb, blind and feeble-minded) within the scope of operation of the compulsory attendance requirements. The more important of these new attendance regulations were: Arizona ('07 ch.67), Idaho ('07 p.248), Illinois ('07 p.520), Kansas ('07 ch.317), Kentucky ('08 ch.68), Michigan ('07 ch.74, ch.48-deaf), Minnesota ('07 ch.407), Nebraska ('07 ch.131), New Jersey ('08 ch.231), New York ('07 ch.103, 585), North Dakota ('07 ch.98), Oregon ('07 ch.79), Pennsylvania ('07 ch.237, 241), South Dakota ('07 ch.137), Vermont ('06 ch.52, 59), Washington ('07 ch.240), Wisconsin ('07 ch.108, ch. 128-deaf, ch.446) and Wyoming ('07 ch.93). The Child Labor Law for the District of Columbia (U. S. '08 ch.209, May 28) may be considered as a long delayed step of progress.

The results in the Southern States were largely in the direction of securing initial legal recognition of the principle of compulsory school attendance. Delaware ('07 ch.121), Missouri ('07 p.428-for St Louis), North Carolina ('07 ch.894-local option), Tennessee ('07 ch.603; ch.604-local), Oklahoma ('08 ch.34, art.1-establishing school scholarships), Virginia ('08 ch.364) passed coercive measures of varying potential effectiveness.

In the majority of the states in which the district is the chief local area of educational purposes, legislative sanction has already been given for the consolidation of districts into larger units. Besides numerous measures relating to minor administrative detail, the recent legislative activity in this whole connection was characterized by efforts to facilitate the transportation of pupils to school. Indiana, by a progressive act ('07 ch.233), determined to discontinue schools having less than 12 pupils and to transport the pupils to neighboring schools. Connecticut ('07 ch.36), Kansas ('07 ch.327), Missouri ('07 p.424), New Jersey ('07 ch.122, 123; '08 ch.231), Ohio ('08 p.203, 265), Pennsylvania ('07 ch.121), Vermont ('06 ch.53) and Wisconsin ('07 ch.496, 553) passed measures designed to encourage the development of the centralized school.

The judicial records of recent years contain abundant evidence of the obstacles to be overcome and of the controversial issues raised by the institution of the consolidated school. The decisions in Indiana (*State v. Jackson* 81 N. E. 62), New Hampshire (*State v. Hall* 74 N. H. 61), New Jersey (*Board of Education v. Atwood* 65 A. 999), and Ohio (*Boyce v. Board of Education* 81 N. E. 437) are typical of the evolution of the principle of equalization of school opportunity. The decision of the United States Supreme Court in the Massachusetts case (*Interstate Consolidated Street Railway Co. v. Commonwealth*, 207 U. S. 79), upholding the constitutionality of the statute requiring street railway companies to transport school children at reduced rate, was one of the significant events in judicial interpretation of the power of the state with respect to public education.

The importance of a complete and accurate school census met with a noticeable and widespread attention. The establishment of a permanent census board and the requirement of a daily school census in each city of the first class (New York, Buffalo, Rochester) in New York ('08 ch.249) is of more than passing interest in relation to the problem of compulsory school attendance under modern urban conditions.

Arizona ('07 ch.67), Missouri ('07 p.433), Montana ('07 ch.51), North Dakota ('07 ch.95, § 6), Ohio ('08 p.51), Oregon ('07 ch.96), Wisconsin ('07 ch.108) lengthened the legal school year. Wisconsin ('07 p.1288) also referred to the next Legislature a constitutional amendment to change the limits of the legal school age from 4 and 20 to 6 and 20.



### Pupils; discipline and health

That the so called high school fraternity is regarded as a menace to the efficiency and character of public secondary schools found demonstration in the legislative enactments of four states (Ind. '07 ch.278, Kan. '07 ch.320, Minn. '07 ch.149, Ohio '08 p.253) prohibiting such organizations. The supreme courts of Illinois (Wilson *v.* Board of Education of Chicago, 84 N. E. 697; Favorite et al *v.* Board of Education of Chicago, 85 N. E. 402) and Washington (Wayland *v.* Board of School Directors, 86 P. 642) rendered adverse decisions in cases brought in support of these fraternities.

The new Ohio law ('08 p.231) providing for the protection of the lives of school children by adequate compulsory fire drill is an example for other states in which there is a full appreciation of the dangers to which thousands of American school children are exposed each day.

California ('07 ch.483) and Colorado ('07 ch.154) each adopted laws against hazing.

The extension of the functions of the state in the matter of the educational welfare of both children and adults is a phenomenon most characteristic of the development of modern public school systems. Perhaps no better illustration could be found of this than the recent enactments relative to physical examination and medical inspection of school children. Connecticut ('07 ch.207) authorized the appointment of school physicians by local school boards; Massachusetts ('07 ch.357) provided for the appointment of school nurses in Boston; Louisiana ('08 no.292) and Virginia ('08 ch.377) provided for the testing of the sight and hearing of pupils; Massachusetts ('08 ch.181) added instruction "as to tuberculosis and its prevention" to the list of prescribed subjects to be taught in public schools.

The right of the state to require vaccination as a condition for entrance to public schools was contested in a number of states. The principle was upheld in six states<sup>1</sup> and held to be of limited application in Illinois (People *v.* Board of Education of City of Chicago, 84 N. E. 1046).

### Textbooks. Curriculum

The movement toward uniformity of textbooks is observable in the creation and organization of new textbook commissions (Id. '07 p.476; Mon. '07 ch.132; Nev. '07 ch.112; Okl. '08 ch.77, art.8;

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<sup>1</sup> Arkansas, Massachusetts, New York, North Carolina, Ohio and Pennsylvania.



Tex. '07 ex. sess. ch.9) and in the modification of existing laws with reference to such commissions already in existence (Ala. '07 p.472, 474; Cal. '07 ch.515; Ind. '07 ch.99, 273; Tenn. '07 ch.67). Missouri ('07 p.434) created a county textbook commission and provided for county uniformity; Wisconsin ('07 ch.561) attempted to secure county uniformity in a manner that precluded success. The amended school code of South Dakota contained provisions for the organization of a county board of education for the selection and adoption of textbooks ('07 ch.135). In general, the new and amended uniformity laws contained provisions concerning free textbooks.

California ('07 ch.472) made special provision for free textbooks in institutions for dependent children; Connecticut provided ('07 ch.40) for special elections in towns for free textbooks.

The legislation dealing with the subject-matter of instruction covers a wide variety of special topics. The following measures may be mentioned as indexes of current tendencies: California ('07 ch.67) providing for the extension of the courses of study of grammar schools; Idaho ('07 p.168) providing for uniform eighth grade examinations; Utah ('07 ch.57) creating a state school committee for the preparation of a state course of study. General provision for the teaching of elementary agriculture and other industrial subjects was made in a number of states (Ark. '07 no.455; Cal. '07 ch.52; Tex. '07 ch.169; Va. '08 ch.284; Wis. '07 ch.503). Arizona ('07 ch.58) made special provision for instruction in commercial branches. The addition of instruction "as to tuberculosis and its prevention," in Massachusetts ('08 ch.181), has already been noted. Utah ('07 ch.96) provided for the establishment of a course of instruction in public schools on the subjects of sanitation and the cause and prevention of diseases. The continued emphasis on physical education may be found in the provisions for vacation schools and playgrounds noted later. The designation of days for special observance in public schools continues as a correlative to the movement for popular instruction in history and patriotism.

The question of sectarian instruction was before the supreme courts of three states for settlement. The supreme courts of Kentucky (*Hackett v. Brooksville Graded School District*, 87 S. W. 792) and Texas (*Church v. Bullock*, 109 S. W. 115) decided that the reading of the Bible without comment did not constitute sectarian instruction.

### Special types of school

The assumption of new duties and the extension of its influence to new groups of pupils and adults is generally recognized as a distinctive characteristic of the modern state school. Kindergartens (Kan. '07 ch.325, Tex. '07 ch.149), special elementary schools for adults (Pa. '07 no.60), evening schools (Cal. '07 p.1275, N. J. '07 ch.36), vacation schools, school gardens and playgrounds (Ohio '08 p.85, Md. '08 ch.106, p.594, Mass. '07 ch.295 — Boston —, and '08 ch.513; Or. '07 ch.159 — Portland); and public lectures, extension and correspondence teaching (Wis. '07 ch.75, 270, 307, 413) are typical of these special forms of the public school. The farmers institute was the subject of considerable special legislation and an immensely important item in the general appropriation bills.

### Secondary schools

The matter of the development of the policy of direct state aid to public high schools has already been referred to in the paragraph dealing with finance and support. When, in addition, the remainder of the legislation concerning secondary education is taken into consideration, there is every indication that the high school is distinctly an object of popular favor. The increasing provisions for secondary education in county, township and joint high schools, and through the extension of high school privileges to all pupils, irrespective of residence, are sufficient warrants for this conclusion. Alabama ('07 p.728), county high schools and state aid; California ('07 ch.69), postgraduate courses in high schools; Colorado ('07 ch.219), Kansas ('08 ch.69), Kentucky ('08 ch.56), Nebraska ('07 ch.122), Nevada ('07 ch.86), North Carolina ('07 ch.820)—county high schools; Illinois ('07 p.523) and Nebraska ('07 ch.121), free high school privileges; Indiana ('07 ch.191), classifying and prescribing course of study; Kansas ('07 ch.336)—tuition, Maine ('07 ch.78)—state aid, academies, Ohio ('08 p.462), Oregon ('07 ch.101), Utah ('07 ch.51)—joint or union high schools; South Carolina ('07 p.518)—providing high schools for the state, are representative of the main lines of progress.

### Technical and industrial education, elementary and secondary<sup>1</sup>

For special review on this subject *see* Dean, Vocational Education, p. 191.

Modernism in public education is nowhere better illustrated than in the endeavor to adjust the American school system to the needs

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<sup>1</sup>*See also* Elliott. Industrial Education: Summary of Legislation. (American Association for Labor Legislation. Bulletin, Dec. 1909)



of the new industrial order. Within a decade this endeavor has become conscious of itself and the legislative annals record a rising number of plans for the elevation of the standards of technical efficiency of those destined for those fields of activity conventionally termed productive. Beginning with the creation of the commission "to consider the needs for technical education in the different grades of industrial skill and responsibility" in Massachusetts in 1905 ('05 r.94) several states have inaugurated special investigations upon this problem; among others Maryland ('08 ch.367, p.298) and New Jersey ('08 p.735). The report of the first Massachusetts commission,<sup>1</sup> together with the reports of the permanent commission later established ('06 ch.505) have served to stimulate activity for the reconstruction of old school programs and the projection of schools with entirely new bases and ends.

From the very considerable number of measures having to do with practical and technical training in schools of elementary and secondary grade the following may be mentioned as typical: Connecticut ('07 ch.250) providing for the establishment of free public schools for instruction in the principles and practice of trades; Georgia ('07 p.994) and Utah ('07 p.275) recommending appropriations by Congress for industrial education; Georgia ('06 p.72) providing for district schools of agriculture and mechanic arts; Maryland ('08 ch. 635 p.227) providing state aid to establish commercial courses in approved high schools; Michigan ('07 no.35) and Mississippi ('08 ch.102) providing for the establishment of county schools of agriculture, manual training and domestic economy; New York ('08 ch.263) providing for general industrial and trade schools; Oklahoma ('08 p.13) creating a system of agricultural and industrial education; Wisconsin ('07 ch.122) providing for the establishment of trade schools, and ('07 ch.573) for a state mining trade school.

### Higher education

The institutions of higher and professional rank in the public educational systems of the majority of the states are, in general, less frequently the objects of conspicuous legislative attention than is the case with the elementary and secondary schools. The principles of organization and administration of these institutions are much more settled, and legislation when it takes place deals with matters

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<sup>1</sup> Report of the Commission on Industrial and Technical Education. (Senate Document, Apr. 1906, no. 349)



usually of distinctly local significance or with the question of financial support.

While not evident in a record of general legislative enactments, a study of the general and special appropriation measures reveals a policy of growing liberality of the states toward their higher educational institutions. The reorganization of the state system of higher education in Florida<sup>1</sup> in 1905 (no.13) led in 1907 to the passage of several acts relating to the support and administration of the several institutions. The most important of these was the proposed constitutional amendment for a special state levy of one mill ('07 p.768).<sup>2</sup> Michigan ('07 no.303) increased the mileage tax for the support of the University from one fourth to three eighths; and also inserted in new Constitution, adopted November 1908, a section (10) rendering it mandatory upon the Legislature to maintain the several enumerated higher institutions. North Dakota ('07 ch.107) reapportioned among the several state institutions the amount derived from the one mill state tax. Oklahoma ('08 p.395) provided for the distribution of the land income among certain institutions. The special act of the Ohio Legislature, authorizing the city of Cincinnati to issue bonds for buildings and equipment for the University of Cincinnati is a noteworthy step in the development of municipal higher educational institutions. There is a distinct tendency in many states to provide for a more careful auditing and control of the expenditures of higher educational institutions. In fact, this tendency gives evidence of a far greater future centralization in the administration of the financial affairs of these schools than now obtains.

Among the items of more than local interest respecting the administration of higher education are: Virginia ('08 ch. 272) providing for a commission to devise a stable method for the maintenance, management and expansion of the educational institutions of the state; the reorganization of the University of Kentucky ('08 ch.3); the authorization of extension and correspondence teaching in Wisconsin ('07 ch.413).

Of the legislation pertaining to professional and higher technical education, that relating to teachers colleges and normal schools has already been commented upon. The influence of legislation concerning agricultural colleges was in three principal directions; (a) extraordinary appropriations for the conduct of special in-

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<sup>1</sup> See *State v. Bryan*, 39 S. 929.

<sup>2</sup> Rejected, November 1908.

vestigations and instruction (extension work, forestry, mining, horticulture, soils, ceramics, poultry, dry farming); (b) establishment of new schools; (c) the organization of instruction for the training of teachers of agriculture and other industrial subjects. Thirty states gave legislative assent to the provisions of the act of Congress of March 16, 1906, for increased appropriations to agricultural experiment stations.

### School libraries

A reading civilization stands in need of a reading school. The library of today is as much an indispensable part of the equipment of an effective school as it is of the community that lives and thinks and moves. California ('07 ch.6) provided for the greater usefulness of school libraries by making them accessible during vacations and to adults; Nebraska ('07 ch.132) created a library fund for the establishment of a library in every public school district in the state; Pennsylvania ('07 no.115, 290) extended the scope of the local library system; Utah ('07 ch.102) provided for a public school library fund; and Virginia ('08 ch.316) provided for the establishment of, and extended state aid to, libraries in rural school districts. Apart from these progressive measures, the legislative record contains numerous items aiming to improve the general efficiency and to increase the support of the school library systems already in existence. This is most noticeable in the legislation of certain of the Southern States. The creation of state library commissions in Missouri ('07 p.353) and in North Dakota ('07 ch.243), and the authorization for the State Board of Education of Rhode Island ('07 ch.1451) to establish traveling libraries are representative of the larger library movement.

### Defective, dependents and delinquents

The public school must ever be the most useful means whereby constructive humanitarianism, both public and private, may carry out its real purposes. The extension of the school influence so as to reach every child, normal, abnormal and subnormal — dependent or independent — may be regarded as not yet accomplished in an effective manner. That the leaven of progress is present there can be no mistake. Compulsory school attendance for the deaf and blind (Minn. '07 ch.407, Mich. '07 no.116, N. C. '08 ex. sess. ch.141, Wis. '07 ch.128); the change in the designation of special institutions from one connoting *asylum* to one expressing *school*

(La. '08 no.238, 239, Ohio '08 p.598, Utah '07 ch.12, Mass. '07 ch.226, S. D. '07 ch.222, Wash. '07 ch.90) ; the establishment of day and special schools for defective children (Wis. '07 ch.551 — blind) ; and for delinquents (Col. '07 ch.170, Ia. '07 ch.7, Minn. '07 ch.172, N. J. '08 ch.307, Utah '07 ch.144, Wis. '07 ch.186) must from every point of view be considered farsighted public economy as well as evidences of the altruism of the modern state.



*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 395

VOCATIONAL EDUCATION

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At the present time there is much interest in nearly every state in the question of "vocational education." School men are aroused over the subject and some are disturbed. Its advocates are seeking legislation. Apparently there is a lack of clear definitions of the respective fields of "manual training," "industrial training," "vocational training" and "trades schools." There is a confusion as to the content of vocational training; whether it includes agricultural, industrial and commercial training. Questions are raised as to the relative attitudes of manufacturers, labor leaders and business men; a question whether vocational education should be in the hands of our present state boards of education or regents, or in the hands of special boards or commissions; whether it is to be incorporated in special schools or in present existing schools; whether such education is to be supported by funds received from regular sources or from special sources. Difficulties apparently present themselves in a hundred ways and much honest difference of opinion exists. All these questions arise when any state legislation comes up looking to the establishment of schools of this character.

The reason for this honest variance of opinion is easily explained. Education is beginning to have a real meaning; it is beginning to teach subject-matter in terms of actual daily life and is taking hold of every factor that means much to the people. Vocational education is attempting to meet pressing economic, industrial and social problems. Tremendous industrial forces have been developing with no adequate coöperation of the schools. When we attempt to study the significance of industry upon the life of our people we find that the social and economic problems involved are exceedingly puzzling. But in all the discussion we

must bear in mind that apart from the direct question of establishing industrial, agricultural, commercial and trades schools the term "vocational education" in the minds of the mass of our people, including teachers, editors and legislators, simply means the redirecting of our public schools through recognizing that they must be adapted to the needs of our people, and that their subject-matter must be taught with an economic as well as an educational purpose in mind. Moreover, vocational education used in its broadest sense is in no way antagonistic to the function of all education which is to develop and train the mind, but the mind may be trained by means of many subjects and some subjects or processes are best for one group of persons and other processes for other groups.

In defining the scope and purpose of vocational education and in enacting any state laws looking toward its development the following points may well be kept in mind:

1 By "vocational education" is meant all that training and instruction which purposely ministers to self-support and productive activity. The study of science, mathematics and art may or may not be vocational according to its purpose, emphasis and the type of students considered.

2 There should be no confusion as to the fundamental difference between manual training which we now have in our public schools and vocational training. Manual training is an instrument designed to form a part of the general training of all pupils, while vocational training is a more or less specialized instruction which deals with selected groups. The latter training may be divided into agricultural, industrial or trade, commercial and technical. The older and more well defined vocations or professions of law, medicine and theology are not considered in this connection.

3 Vocational education must not only be divided into various groups representing the occupations of our people but it must be also separated into various phases and represented by various types of schools depending upon the age of pupils and such other considerations as bear upon the general educational policy in the state.

4 The whole question of vocational education is one for a state government to consider. It ranks with the problems of state canals, highways, forest reservations and water powers. The success of maintaining it will depend upon state funds. Cities and towns will have to be encouraged by liberal state support. The equipment of these schools is somewhat expensive, the salaries

of their teachers are higher and other expenses of maintenance greater. Moreover, in many instances it is well nigh impossible to educate local school boards to the point where they are ready to expend local funds by a direct tax for the entire support of a system of schools which are so obviously a great factor in the advance of the industries of the whole state.

Moreover, it should be a state policy because it is necessary to economize effort and properly adjust the work which the various communities may contemplate. Agricultural and industrial schools in some states are springing up with no central educational body responsible for them. In some cases they are duplicating effort while they should be planned in reference to the educational and industrial interests of the state.

5 The state should not pay all the expenses of vocational education. Local enterprise and responsibility should be developed. Schools typifying this education must be close to the people. Educational democracy can not be realized if our people are required to attend schools at a great distance, where there is expense of board and rooms, individual loss to pupils of home influences and loss to parents of sundry help which children often contribute outside of school hours. Moreover, the class of children which enters the elementary and secondary agricultural, commercial and industrial schools can not afford to go away to school and it is not best that they should.

6 The control of vocational education should be in the hands of existing state boards of education. It is a serious mistake to commit the organization and administration of these schools to a special commission and not to the public school authorities of the state and the subdivisions thereof. It is needless to create an expensive commission for the purpose of accomplishing that which we have every reason for assuming can be accomplished without additional state machinery. If for any reason existing boards are not capable of administering vocational education they should be strengthened by either the addition of an advisory board or by the reorganization of the present board.

7 Furthermore, the various communities of the state should not be prohibited from exercising the same reasonable control over vocational education which they tax themselves to support as they now exercise over their other educational departments. This education should be kept as much as possible in the hands of local



control and management, otherwise it will be running contrary to accepted theories of the relationship of state and local government.

8 It is important to consider the question of the relationship of trades schools to trades unions. The state can develop a plan of procedure which will meet with the coöperation of employer and employee — of capitalist and of organized labor — but trades unions must have confidence that what is being done is free from selfish exploitation and rests on a truthful educational footing and is guided by the common advantage of all the interests concerned. To make more effective this idea it will be best to include in any enactment a provision for the appointment of local advisory boards to assist in the administration of these schools. Such boards will serve a double purpose: (*a*) establishing in the community a confidence in the technical work done in the trades school, and (*b*) reinforcing the school board in its appeal for financial support before city governments.

9 In order to develop a state scheme of vocational education it will be necessary to bear in mind the training of teachers for such work. Up to the present time our normal schools have been organized on the basis of training teachers for general education. There is little use in enacting laws providing for a different and more special form of education unless at the same time provisions are made to train teachers capable of advancing this work.

10 The question will come up as to whether vocational schools are to be separated from schools devoted to general training. At the present writing many states are isolating this latest educational movement by organizing separate classes of schools, called "independent schools." It will be a mistake to forever forbid a union of the old type with the new. On the other hand, to attempt to incorporate "vocational education" in existing schools that have other traditions may defeat its purpose. It may be best to advocate special or distinct schools until these schools get their bearings, courses of study, textbooks and some traditions worthy of preservation. However, eventually much that there is in these schools must go into the regular schools. They are bound to be popular; they will be useful and significant. Meanwhile, vocational education must make its own traditions by creating a machinery that will do it.

11 Vocational training ought not to begin until after the ordinary school arts like reading, spelling, writing, drawing, arithmetic and the rudiments of history, geography and nature study are fairly

completed. Under ordinary conditions the vocational schools should be open to children who are 14 years of age and who have completed the first six grades of the elementary school.

12 Vocational education may well be divided into three phases: (a) intermediate, (b) secondary and (c) advanced, the first form being primarily intended for pupils 14 to 16 years of age giving them training of an order preparatory to entering occupations in the fields of agricultural, trades and manufacturing industries. By no means can it assume to give complete vocational proficiency. Such training must, from the standpoint of greatest advantage both to the individual and the community, train for practical work and at the same time secure an adequate training of the mind.

The second form of vocational training — the secondary vocational education — may be offered to pupils who are 16 years of age. This training may, or may not, parallel our existing high schools. It must, however, make a more or less direct connection with the intermediate vocational training previously referred to. The closer the connection with such preliminary training the more closely the secondary agricultural and industrial schools can have highly specialized courses with their instruction concentrating for the development of skill and knowledge of direct practical value.

The third type — the advanced vocational or technical training — needs no formulating as it is already well defined and is being admirably carried out in the various agricultural and mechanics arts colleges which have been established under the Land Grant Act of 1862.

13 Evidence goes to show that probably the most far-reaching phase of the present movement for vocational education will be the establishment of continuation schools. In general, it may be said that we are to allly unprepared thus far for this type of education. Before we can do much in this direction laws will have to be enacted requiring employers to regulate their affairs so that their employees may attend these continuation schools. The problem of providing an education that will allow "earning and learning" will never be solved until there is some coöperation between the state educational policy and factory laws. Possibly the state may be able to recognize the work that is being done in the apprenticeship systems in our large industrial establishments. However, if the private apprenticeship system is to be taken as a partial substitution for public industrial training the state must have the same supervision of the training received in these industries that it now has



through rules and regulations concerning hours of labor, infectious diseases, ventilation, dangerous machinery and child labor.

14 There is a strong connection between the compulsory school laws and a state policy of vocational education. There is little use of proposing a form of education necessarily expensive and complicated unless there is some readjustment of school laws and child labor laws so that the laws relating to vocational education may closely articulate with the laws relating to compulsory attendance.

15 In conclusion, it may be said that industrial, agricultural and technical schools should be of every kind for which there is a demand on the part of the people. There will have to be nearly as many school classifications as there are groups of industries; nearly as many solutions as there are types of communities. We must keep in mind that simple and balanced justice makes it necessary to give to the wage-earning masses and to the common industries such equivalent as we can for what the present schools are doing for the wealthier classes and for the professional and managing vocations.

The following is a summary of the principal laws within this field enacted at the sessions of 1907 and 1908:

#### **General laws: agriculture, manual training, household economy**

**Michigan.** An act providing for the establishment of county schools of agriculture, manual training and domestic economy. The question of establishing such schools and appropriating money shall be submitted to a vote of the electors of the county. County school board of five members shall have charge and control of the organization, equipment and maintenance of such schools. When two or more counties unite the amount of money necessary for the equipment and maintenance of a school shall be apportioned in proportion to the assessed valuation of each county. In these schools instruction shall be given in the elements of agriculture, system of farm accounts, manual training and domestic economy. Each school shall have connected with it a tract of land of not less than 10 acres in area. The schools must provide instruction for students of advanced age desiring admission to the school during the winter months. The State Superintendent of Public Instruction, together with the president of the Michigan State Agricultural College, shall determine qualifications required of teachers employed in these schools. The State Superintendent shall have general supervision



of the schools, making inspections and reports of their work ('07 no.35).

**Wisconsin.** An act relating to the number of county schools of agriculture and domestic economy that may be established. This is an amendment of a former law providing for the establishment of county schools. It increases the number of such schools from two to eight and provides that these schools, when their courses of study and the qualifications of their teachers have been approved by the State Superintendent and the dean of the College of Agriculture, may be placed upon the approved list of county schools of agriculture and domestic economy. After proper certification has been made of the work of these schools the state will pay to the county maintaining such a school a sum equal to two thirds of the amount actually expended for maintaining the school during the year provided that the total amount so apportioned shall not exceed \$4000 to any one school in any one year ('07 ch.540 amdg. '03 ch.288 § 10).

**New Jersey.** An act to establish summer courses in elementary agriculture, manual training and home economics. The summer courses shall give instruction in method of teaching these subjects and for this purpose there is appropriated annually a sum not exceeding \$2000. This instruction is under the control of the State Board of Education, which designates the place or places where such courses shall be provided. Certificates of graduation from such courses of study shall be valid licenses to teach in the public schools the subjects covered by said certificates, provided holders thereof shall also hold certificates valid as licenses to teach in the public schools in which they shall be employed ('08 ch.55).

**Oklahoma.** An act to put into force section 7 of article 13 of the Oklahoma Constitution requiring the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools; to create a harmonious system of agriculture and industrial education for Oklahoma; to provide for the establishment of departments of agricultural instruction in the state normal schools and for the chair of agriculture for schools in the agricultural and mechanical college; and to provide for the establishment and maintenance of agricultural schools of secondary grade in each supreme court judicial district, with branch agricultural experiment stations and short courses for farmers in connection therewith. For the purpose of carrying out the above requirements the bill provides for a State Commission of Agricultural and Industrial Education, consisting of the State Superin-

tendent of Public Instruction, the president of the State Board of Agriculture and the president of the Agricultural and Mechanical College, all serving without additional pay. This commission shall conform to the rulings of the State Board of Education, shall co-operate with all state normal schools, the State Board of Agriculture and the State College and shall not interfere with the more important duties of said boards and institutions. The State Superintendent of Public Instruction shall investigate and determine the character and extent and cost of courses of instruction in the branches provided for in this act. No person shall teach and no certificate shall be granted to an applicant to teach, in the public schools receiving aid from this state, who has not passed a satisfactory examination in the elements of agriculture. Each of the state normal schools shall have a department of agricultural and industrial education. State appropriation of \$2500 is made for this purpose for each of the said departments in the three existing normal schools.

The State Agricultural and Mechanical College shall be the technical head of the agricultural, industrial and allied science system of education. Provision is made for experimental farms, farmers short courses and institutes. No courses of instruction shall be offered in such agricultural schools other than industrial courses, but this shall not exclude teaching the common school branches, the languages, manual training, manufacture, the sciences and other necessary studies as subjects in the industrial courses.

There is appropriated for the first two schools out of the building fund of the State Treasury the sum of \$20,000 for each school, and for the maintenance and support of such schools the sum of \$12,000 per annum with a provision that one fourth of the sum appropriated for the support and maintenance of such schools shall be expended in developing agricultural experiments of practical value to the farmers of the district in which such school may be located ('08 ch.3 art.3).

### Agricultural

**Arkansas.** An act authorizing the teaching of elementary agriculture in the public schools. School directors are authorized to require elementary agriculture to be taught in public schools and authorized to select some textbook on the subject. Said textbook to be used as a part of the course in reading or as a supplementary reader ('07 no.455).



**Texas.** An act amending a former one to require the teaching of elementary agriculture in all public schools in the state, excepting from the requirement those independent school districts containing a scholastic population of 300 or more unless ordered by the school boards ('07 ch.169 amdg. '05 ch.124 §100).

**Mississippi.** An act to provide for the establishment of county agricultural high schools, and to provide for their organization and maintenance. County school boards may establish one agricultural high school in their county for the purpose of instructing the white youth in high school branches, theoretical and practical agriculture. Such board shall have the power to levy a tax on the taxable property at the time of the annual tax levy, for the support and maintenance of said schools, provided such tax for any one year shall not exceed two mills.

The government of these schools is vested in five trustees. One member of the board shall be the county superintendent of education. No school shall be recognized by the State Board of Education as an agricultural high school until at least 20 acres of land has been acquired. Provision is made for the inspection of work of such schools by the State Superintendent, and state aid is given to the amount of \$1000 for each school, said aid to be withdrawn when the State Board of Education finds that the school is not being legally conducted for the purpose for which it was established ('08 ch.102).

**New York.** An act to establish a state school of agriculture at Alfred University, and making appropriation therefor. This school is to give elementary and practical instruction in agriculture. The sum of \$75,000 is appropriated for the purchase of farm implements and live stock, and all other equipment and supplies necessary. Alfred University is authorized and empowered to purchase lands, construct buildings and let the contracts. Not more than 300 acres is to be purchased, and the purchase shall be approved by the Commissioner of Agriculture. The scope of this state school of agriculture is clearly defined. In brief, it is to give elementary and practical instruction in agriculture and kindred subjects; to conduct, for the improvement of such instruction, investigations and experiments in agricultural methods and resources in western New York, and in means and methods for the care and improvement of live stock; to stimulate agricultural pursuits, and to increase knowledge by which such industry may be successfully carried on; such work shall be coördinated so far as practicable with that at the



New York State College of Agriculture at Cornell University; and furnish both a practical training for the pursuit of agriculture, and complemental training, preliminary to advanced courses in the said State College of Agriculture at Cornell University.

To assist in developing a harmonious movement in agricultural education in the state, the act calls for the appointment of the State Commissioner of Agriculture, the director of the New York State College of Agriculture at Cornell University and a person to be annually appointed by the state grange to act as ex officio members of the board of managers. It is definitely stated that Alfred University shall receive no income, profit or compensation from any appropriations made for the said school of agriculture. The funds shall be separate and shall be used exclusively for the state school of agriculture ('08 ch.200).

An act providing for the establishment of a state school of agriculture at Morrisville, Madison co., and making an appropriation therefor. This school to have for its objects and purposes the elementary and practical instruction of pupils attending such school in agriculture and all allied subjects, including domestic science; the giving of instruction in agriculture and agricultural science preparatory to the more advanced courses in the State College of Agriculture at Cornell to which end the work shall be conformed as far as practicable with that of the last named institution and also the giving of elementary and practical instruction for the carrying on of agricultural pursuits to such as do not desire the more advanced course; the conducting of investigations and experiments in central New York for the purpose of ascertaining the best methods of fertilizing fields, gardens and plantations and the best modes of tillage and farm management and the care and improvement of live stock.

The care, management and control of said school, property and premises shall be exercised by a board of seven trustees. The State Commissioner of Agriculture and the director of the New York State Agricultural School at Cornell University shall, ex officio, be members of the board of trustees. The other five trustees shall be appointed by the Governor by and with the consent of the Senate. At least two of such trustees shall be residents of the county of Madison. One of such trustees shall be a person recommended by the state grange, if such recommendation be made. This board of trustees shall employ and remove teachers, experts, chemists and all necessary clerks and assistants; adopt rules not inconsistent

with the law controlling the affairs of such school; and prescribe the course of instruction and the methods of investigation and experiments to be followed in such school.

The sum of \$20,000 is appropriated for the purpose of altering, equipping and maintaining the buildings located at Morrisville known as the courthouse, jail and connecting buildings, and for the erection of any new buildings and the purchase of any land that may be necessary for the purposes of said school of agriculture. All such expenditures to be made in such a manner as shall be prescribed by the State Architect, the State Commissioner of Agriculture and the said board of trustees ('08 ch.201).

An act amending a former law which was entitled "An act to establish a state school of agriculture at St Lawrence University, and making an appropriation therefor." The amendment reads as follows: Such school shall have for its objects and purposes the elementary and practical instruction of pupils attending such school in agriculture and all allied subjects; the giving of instruction by means of schools, lectures and other university extension methods for the promotion of agricultural knowledge; the conducting of investigations and experiments for the purpose of ascertaining the best method of fertilization of fields, gardens and plantations and the best modes of tillage and farm management and improvement of live stock; and the printing of leaflets and the dissemination of agricultural knowledge by means of lectures and otherwise; the printing and free distribution of the results of such investigations and experiments, and the publication of bulletins containing such information as may be deemed desirable and profitable in promoting the agricultural interests of the state, such work to be conducted so far as practicable in harmony with the College of Agriculture at Cornell University ('08 ch.202 amdg. '06 ch.682).

**Illinois.** An act to extend the equipment and increase the instruction in the College of Agriculture of the University of Illinois and to provide for the extension of the Agricultural Experiment Station, and to make appropriations therefor.

This act has seven sections devoted to appropriating public money for specific agricultural purposes.

1 Appropriation of \$50,000 annually for two years to be spent along lines of giving thorough, reliable instruction in the economic production of crops and of extending and developing trade in the agricultural productions of the state, including provision and main-



tenance of live stock specimens, laboratories, apparatus and other material equipment as will best meet existing market demands.

2 Appropriation of \$25,000 annually for two years for conducting investigations calculated to develop beef, pork, mutton, wool and horse-producing interests of the state; to discover the most economical and successful methods of maintaining animals and fitting them for the market.

3 Appropriation of \$15,000 annually for two years for the purpose of conducting experiments in order to discover the best methods of producing corn, wheat, oats and clover.

4 Appropriation of \$25,000 annually for two years in order to make chemical and physical examinations of the various soils of the state; to make and publish an accurate survey of the location, extent and boundaries of such soils.

5 Appropriation of \$15,000 annually for two years to discover and demonstrate the best methods of orchard treatment in the fruit sections of the state.

6 Appropriation of \$15,000 annually for two years to investigate the dairy conditions of the state and to promote these interests by such field assistance upon farms and in the creameries as shall tend to better methods and more uniform products.

7 Appropriation of \$7500 annually for two years to discover and demonstrate the best methods of producing plants, cut flowers and vegetables under glass.

The word undertaken and outlined in all these sections to be agreed upon by the director of the Agricultural Experiment Station and advisory committees to be appointed by the various state agricultural organizations ('07 p.11).

### Technical and manual training •

**Connecticut.** An act concerning the establishment of free public schools for instruction in the principles and practice of trades. Any town or school district may, by vote of such town or district, establish and maintain a free public school for instruction in the principles and practice of distinct trades. No child under 16 years of age shall be admitted to any such school who has not completed the studies of the eighth grade in the public schools, or an equivalent course of study. Local school officers will make rules and regulations with reference to the management of said schools. The instructors in such schools shall be experts in the trades respectively taught by them.



Two or more towns may unite for the purpose of forming a trades school district. Buildings, equipment and courses of study and qualifications of teachers of such schools shall be subject to the approval of the State Board of Education. After the State Board of Education has inspected and approved such schools the state will provide toward the maintenance and support of these schools a sum equivalent to one half the amount certified as having been expended for such support and maintenance, provided that the total sum so paid by the state shall not in any one year exceed in the aggregate \$50,000; still further provided that this sum shall be expended toward the support and maintenance of not more than two such schools ('07 ch.250).

**New Jersey.** An act in relation to schools for industrial education in cities of the second class in the state, and providing for the purchase of land and buildings for the use and purposes of schools for industrial education within the corporate limits of cities of the second class, after obtaining the consent of the common council or other governing body of such cities. The cost and expense of land and buildings shall not, in the aggregate, exceed the sum of \$50,000, and bonds shall be issued for such school purposes ('07 ch.222).

**North Dakota.** An amendment to an act which related to the industrial school and school for manual training, which provides that the institution formerly known as an industrial school and school for manual training, located at Ellendale, Dickey county, shall be designated as the state normal and industrial school, the object of such school being to provide instruction in a comprehensive way in wood and iron work and the various other branches of manual training, cooking, sewing, modeling, art work, and the various other branches of domestic economy as a coördinate branch of education, together with mathematics, drawing and the other necessary school studies, and to prepare teachers in the science of education and the art of teaching in the public schools, with special reference to manual training ('07 ch.241 amdg. R. C. '05 §1172).

**Wisconsin.** An act providing for the establishment and maintenance of trade schools within the state. It provides that any city may establish, conduct and maintain a school, or schools, for the purpose of giving practical instruction in the useful trades, to persons having attained the age of 16 years, as a part of the public school system of such city; such schools being under the super-

vision of the local school boards. None of these schools are to be maintained, however, unless there be an average enrolment of at least 30 scholars.

The school board may appoint an advisory committee, to be known as the committee on trade schools, consisting of five citizens, not members of the school board, each of whom is experienced in one or more of the trades to be taught in the school, or schools. This committee shall have authority, subject to the approval and ratification of the school board, to prepare courses of study, employ or dismiss instructors, purchase machinery and purchase or rent buildings for the use of such trade schools. Any manufactured article made in such school may be disposed of at the discretion of the school board.

A tax not exceeding one half of one mill on the total assessed valuation of such city shall be levied and shall be known as the trade school fund, to be used in establishing and maintaining a trade school, or trade schools, in such a city ('07 ch.122, adds S. '98 §926 subdiv.22-30).

An act relating to the establishment of technical schools and colleges by cities. Any city may establish such school or college as a part of its public school system, provided the resolution establishing such system of education shall be submitted to the electors of the city ('07 ch.344, adds S. '98 §490m).

An act amending previous sections of statutes and creating section of the statutes, in relation to manual training in schools. Any board having charge of a free high school may establish and maintain a department of manual training in connection with the *high* school, or in connection with said high school and the three upper grades next below the high school. The expense of maintaining such department shall be provided for in the same manner as other expenses of maintaining high schools. The State Superintendent of Public Instruction, through inspection, shall have general supervision of all manual training departments established under this section. He shall establish a standard of qualification for all teachers in these departments and may grant special certificates for those who are to teach in them. When such departments have met the approval of the State Superintendent in regard to the cost of maintaining the department, the character of the work done, the number and names of teachers employed and the length of time such department was maintained, there shall be granted state aid under the following conditions: One half the



amount actually expended for instruction in the manual training course during the year for which the state aid is received, not however to exceed \$350 if the manual training department shall have been maintained in connection with the high school and the three upper grades next below the high school, but not exceeding \$250 if the manual training department shall have been connected with only the high school. The total amount expended for such purpose by the state shall not exceed \$25,000 in any year. It provides that two or three school districts, each of which maintains a free high school, may unite in engaging the services of suitable teachers of manual training ('07 ch.503, amdg. S.'98 § 496b-c).

**Maryland.** An act authorizing the Governor to appoint a commission on industrial education, this commission consisting of five persons, to make inquiry and report to the Legislature at its next session, by bill or otherwise, respecting the subject of industrial education, including an examination of the extent to which it is already carried on in Maryland and elsewhere, the best means of promoting and maintaining it in its several grades, whether by state or local action alone, or by both combined; how far it is possible or desirable to incorporate it into the existing system of public instruction; the best method of training teachers for such schools or departments.

The members of the commission are to serve without compensation except for necessary expenses actually incurred, the sum not to exceed \$300 ('08 ch.367 p.298).

**Massachusetts.** An act relative to the Commission of Industrial Education. The commission already established is to have its term extended from three to five years. The Governor, by and with the consent of the council, is to appoint a woman as an additional member of the commission. This commission is to have all necessary powers in the conduct and maintenance of independent industrial schools. Such schools, if approved by the Commission on Industrial Education as to location, courses and methods of instruction, shall receive reimbursement as provided in section 4 of chapter 505.

Any resident of Massachusetts may, with the approval of the commission on industrial education, attend an independent industrial school in any city or town other than that in which he resides, provided there is no such school supported in whole or in part by the city or town in which he resides. The commonwealth shall repay to any city or town one half of all payments made by said city or town for the tuition fee that is fixed by said commission.



Neglect to pay such fee on the part of any city or town makes it liable in action of contract ('08 ch.572).

**New Jersey.** A joint resolution authorizing the Governor to appoint a commission to inquire into the subject of industrial education and report thereon to the Legislature. The Governor is authorized to appoint a commission of five persons and inquire into and report on the subject of promoting industrial and technical education. They shall serve without compensation, but shall be repaid their expenses actually incurred in their duties, and may employ a secretary. The total expense of said commission shall not exceed \$3000.

The commission shall investigate the needs for education in the different grades of skill and responsibility in the various industries of the commonwealth; how far the needs are met by existing institutions, and what new forms of educational effort shall be advisable, and shall make such investigations as shall be practicable through printed reports as to similar educational work done by other states, by the United States government and by foreign governments ('08 p.735).

**New York.** An act to amend the Consolidated School Law by providing for the establishment and maintenance of general industrial and trade schools in cities and in union free school districts, and making an appropriation therefor.

This act provides for the establishment, acquisition, conduct and maintenance as a part of the public school system, of general industrial and trades schools. They are divided into two classes, (1) general industrial schools open to pupils who have attained the age of 14; (2) trades schools open to pupils who have attained the age of 16 and have completed either the elementary school course or a course in the above mentioned general industrial school, or who have met such other requirements as local school authorities may have prescribed.

An advisory board of five members, representing the local trades and industries, is to be appointed by the board of education. This board shall counsel with and advise the board of education. The board of education shall have full power and authority to employ competent teachers, provide courses of study, to purchase sites, buildings, machinery and supplies. State aid is provided toward the maintenance of such schools as follows: The sum of \$500 for each independently organized general industrial or trade school maintained therein for 40 weeks during the school-year and employ-

ing one teacher whose work is devoted exclusively to such school, and having an enrolment of at least 25 pupils and maintaining a course of study approved by the Commissioner of Education. The Commissioner of Education shall also make an additional apportionment to each city and union free school district of \$200 for each additional teacher employed exclusively in such schools for 40 weeks during the school year.

It shall not be construed that this act entitles manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds.

The Commissioner of Education shall have general supervision of these schools; he shall prescribe regulations governing the licensing of the teachers employed therein; and he is authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions of the act, and to advise and assist boards of education in the several cities and school districts in the establishment, organization and management of such schools ('08 ch.263, amdg. Consolidated School Law '94 ch.556 § 25-27, adds § 25a, 28).

### Mining

**Oklahoma.** An act creating a state school of mines and metallurgy for the purpose of teaching the scientific knowledge of mining and metallurgy in the state of Oklahoma. Such a school to be located and established in the town of Wilburton, provided this town shall provide a tract of land of not less than 40 acres. The principal purposes of such a school shall be to teach such branches in mining and metallurgy as will give a thorough technical knowledge of mines and mining, and all subjects pertaining thereto, including physics and mining engineering, mathematics, chemistry, geology, mineralogy, metallurgy, the subject of shop-work and drawing, the technical knowledge and properties of mine gases, assaying, surveying, drafting of maps and plans, and such other subjects pertaining to mining engineering as may add to the safety and economical operations of mines within the state.

It shall have a separate and distinct faculty and, under the direction of the board of regents, shall have the power to confer degrees and issue diplomas.

Appropriation is made of the sum of \$15,000 providing for the location, support and maintenance of the school ('08 ch.70 art.3).

**Wisconsin.** An act creating new sections in the statutes and relating to the establishment of a state mining trade school and mak-

ing an appropriation therefor. It provides that this school shall be established in the city of Platteville, and shall be known as the Wisconsin mining trade school. It is to be under the control and management of a board of three members, one of whom shall be the Superintendent of Public Instruction. This board shall proceed to obtain a suitable location, erect buildings and procure such apparatus as may be necessary for the successful operation of the school; also to appoint a principal and such other teachers as may be deemed expedient.

The course of instruction shall be two years in length and shall enable students to obtain a knowledge of the science, art and practice of mining and the application of machinery thereto. The course of study shall be approved by the dean of the College of Engineering of the University of Wisconsin. The sum of \$30,000 is appropriated for the purposes of this act ('07 ch.573, adds S.'98 § 392m-t).



*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 39t

LIBRARY LEGISLATION

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**Laws of 1907.** In the year 1907 the Legislatures of 29 states enacted laws affecting libraries. Out of a total of 56 acts, 16 related to state libraries of which nine increased the salary of the librarian or his assistants and three added to the income of the library; five laws related to the distribution of documents, eight to law libraries and three to school libraries.

In Illinois the library employees pension act was amended and in Rhode Island a larger penalty was named, amounting to \$20 for injury to books and \$10 for their detention. Eight laws were concerned with state supervision of libraries and 10 provided for establishment and support.

The two latter classes of laws are of special importance. Missouri and North Dakota created library commissions, the former with five members and the latter with three. Alabama directed its Department of Archives and History to act also as a library commission and Rhode Island authorized the State Board of Education to send out traveling libraries. Oregon increased the annual appropriation for its commission from \$2000 to \$6000, and Washington appointed a superintendent of traveling libraries for a service formerly required of the State Librarian.

Each one of the 10 laws respecting the establishment and support of libraries was an amendment of an existing law. In Iowa the power to contract for library facilities was extended to township trustees. In Minnesota the library board of any city of 50,000 was authorized to extend the use of its libraries and museums by contract with a neighboring county or village. In New York the rights of accepting conditional gifts and of transfer were enlarged so as to apply alike to municipalities, districts or public libraries. In Pennsylvania any municipality adjoining a city of the

third class or a borough may join with it in the support of a common library, and the town councils of certain small municipalities have the same power in maintaining libraries as the councils of boroughs, a 1 mill tax being authorized. In South Dakota a municipality of over 500 may levy a tax of  $1\frac{1}{2}$  mills, formerly but 1 mill, for a public library. In Utah where formerly a tax of  $\frac{1}{3}$  mill was permitted a city of the first class on establishing a public library must lay a  $\frac{1}{3}$  mill tax and may levy  $\frac{2}{3}$  mill and a city of the second class may lay a 1 mill tax. In Washington any city having an assessed valuation of \$2,000,000 may tax itself  $\frac{1}{2}$  mill on the dollar for a public library and in cities of less valuation the tax may be sufficient to raise \$1000. In Wisconsin cities of more than 150,000 population the common council may levy and collect annually a special library tax of not more than  $\frac{1\frac{1}{5}}{2}$  of a mill upon the dollar, the amount of which shall be determined by the library trustees and the library trustees shall erect or provide a library building without action of the common council. In Wyoming several verbal changes were made in the law for county libraries and a clause in the former law limiting expenditure for works of fiction to 25 per cent, was dropped.

**Laws of 1908.** The chapter of library legislation for 1908 is unusually short. Out of 11 statutes affecting library conditions six relate to state libraries. Of these six, one in Kentucky fixes a clerk's salary; one in Nevada appropriating \$25,000, provides for classification and cataloguing of books, modern equipment of the state library and its removal from the capitol to a library building. In Oklahoma the office of state librarian is created with a term of four years, and an assistant provided. In Rhode Island the State Librarian may have \$2300 (formerly \$1500) for clerical assistance. In the Virginia state library fees may be charged for making copies of papers, the amount to be converted into the treasury. In New York the session laws are to be edited under supervision of the director of the state library.

The Illinois Library Law was amended to remove the amount of the library tax from the limit of taxation in cities of over 1500 inhabitants, formerly in cities of 2000 inhabitants.

The law of Ohio was amended verbally in relation to the payment of bonds issued by public library boards, and a provision for boards of trustees of school libraries containing 25,000 volumes was repealed. An important law was enacted in Virginia for libraries in rural schools by which the people of any district raising

\$15 for a library may receive as much again; \$10 from the state and \$5 from a district tax. Local libraries may be exchanged among districts. \$5000 is appropriated to carry out these provisions on the part of the state, and the State Board of Education is to make rules for the use of books in these rural libraries.

By an act of South Carolina, when 25 schools in any county shall have received from the State Board of Education a sufficient library appropriation, the balance of the state appropriation for this purpose may be used for expenses of sending out traveling libraries given or loaned to the state or for traveling museum cabinets and any further balance may be used for prizes for rural school improvement.

An interesting development of the library situation in the state of New York appears in the original charter granted to the new city of Oneonta in which a full title of seven sections is given to the "Department of Public Libraries." This is the first time that any city charter in this state has created such a department and has named the trustees of the public library as city officers. The city of Oneonta is made a public library district; the appointment of trustees and their powers are in accord with the University Law; the library is to report annually to the common council as well as to the state, and the library board has powers, similar to those of the school board, in fixing the amount of the library tax, subject only to the veto of the mayor, and with power to override such veto by action of four fifths of its members. Similar powers in levying a tax were given to the library board by the charter of the city of New Rochelle some years ago, but the department of public libraries has not heretofore been created. It is a welcome recognition of the public library as an independent institution.





*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 3911

**PUBLIC PRINTING AND RECORDS**

PETER NELSON, MANUSCRIPTS SECTION, NEW YORK STATE LIBRARY

**Public documents. Printing. Distribution.** Of the 41 states whose legislative output is indexed in the *Index of Legislation* 1907, which includes the 1906 session of Vermont, 22 states enacted 32 laws that affected public documents and printing. Of the 24 Legislatures whose work is covered by the *Index of Legislation* 1908, eight took action on this subject, passing 17 laws. Some of the changes made are unimportant in a general review and will not be noticed.

Colorado grants permission to separate public, educational, reformatory and penal institutions of the state to order their own printing, publishing and binding, subject to the approval of the Commissioner of Public Printing ('07 ch.207).

Connecticut transfers a large number of the reports made to the Legislature from the annual to the biennial class, leaving in the former only the reports of the Comptroller, Bank Commissioners, Treasurer, Railroad Commissioners, Insurance Commissioner and Commissioner of Building and Loan Associations ('07 ch.133).

Idaho repeals the law passed in 1903 (p.333) which required state and county printing to be done in the state ('07 p.7).

Iowa provides for printing 3000 copies of the Geologic Survey report and 4000 copies of the report of the Dairy Commissioners; it is also provided that one copy of the sheep bound set of public documents shall be sent to each public library and each college library in the state ('07 ch.3).

In Louisiana, Governor Blanchard called the attention of the Legislature to the cost of the state printing and the constant and large deficiencies in the appropriations therefor; the Legislature thereupon appointed a special joint committee of their own number, two of whom under the terms of the act were practical printers and newspaper publishers, to investigate the subject and report within

10 days ('08 no.4) ; the same Legislature later in the session passed an act abolishing the former State Printing Board of two senators and three representatives who let the contract for all state printing to the lowest bidder subject to the approval of the Governor, the President of the Senate and the Speaker of the House, or two of them, and created a new State Printing Board composed of the Governor, the State Auditor and the Secretary of State; the new board has power to contract for the legislative printing only and heads of departments and state officers are empowered to let the printing of their own reports, etc., subject to the approval of the Governor, the President of the Senate and the Speaker of the House, or two of them, and must have the consent of two members of the Printing Board to orders exceeding \$200; the maximum prices to be paid for printing are reduced and expenditures limited to \$35,000 per year ('08 no.184).

Maine follows up the action abolishing the office of public printer ('05 ch.155) by doing away with that of public binder and authorizing the Governor and Council to let this work on competitive bids ('07 ch.176).

Maryland reduces the maximum acceptable bid for the legislative and departmental printing from \$25,000 to \$22,000 ('08 ch.206 p.231).

Massachusetts reduces the number of copies of public documents to be printed, in the absence of other specific legislative provision, from 1500 to 1000; further provision is also made that "the number of copies of any report to be printed in any one year may be decreased by agreement between the officer, board or commission making such report and the Secretary of the Commonwealth" ('08 ch.444); in 1907 it was enacted that every city and town must provide a suitable place, approved by the Commissioner of Public Records, for the preservation and use of books, reports and laws received from the commonwealth and that these volumes should be in the custody of the city or town clerk unless some other person were designated by the city council or selectmen ('07 ch.117); the amendments to this section adopted in 1908 were unimportant ('08 ch.142); the law governing the distribution of public documents had provided that one copy should be furnished to each city and town and is amended by providing that they shall not be sent to a city or town voting not to receive them if the Commissioner of Public Records shall report to the Secretary of the Commonwealth that in his opinion such city or town is unable to make suitable provision for them ('08 ch.422); the Blue Book is to be



furnished to the assistant registers of the judicial courts and the Secretary of the Commonwealth is authorized to sell surplus copies remaining in his hands ('08 ch.173, 443).

Nevada provides for the copyrighting of state publications by the State Printer ('07 ch.210) whose salary is raised from \$2000 to \$2400 ('07 ch.115); the earlier act ('97 ch.108) providing for the publication of the Supreme Court reports and all required advertising in some newspaper published in the state at a compensation not to exceed \$600 per annum is by implication repealed and two newspapers published at the capital are to be selected by the State Board of Examiners, one to publish all required advertising for not to exceed \$40 per month, the other to publish the Supreme Court reports for not to exceed \$60 per month under practically the former conditions as to manner of publication ('07 ch.213).

New Jersey provides for the distribution to each free public library in the state of one copy of each publication printed or published by the state or purchased by it for distribution ('07 ch.154); it is also provided that all reports of officers, boards and commissions of the state shall be made at least 10 days prior to the first of January and, if required by law to be printed, shall be delivered to the members of the Legislature in printed form on the first day of the session ('08 ch.133); a Department of Public Reports is created, following the recommendations of Governor Fort, to consist of a single commissioner appointed by the Governor for five years at an annual salary of \$5000; all reports are to be filed with the Secretary of State and to be critically examined, edited and indexed by the Commissioner of Public Reports, subject to the approval of the Governor ('08 ch.211).

In New York, the number of copies of one annual report has been increased to the extent of 2500 copies but 12 other reports are to be printed in smaller editions, the decreases running from 500 to 4000 copies ('03 ch.274); the number of copies of the legislative journals to be printed is slightly increased ('08 ch.275).

North Dakota tries to evade extortion in printing bids by enacting that when a combination to fix prices exists between two or more printers, or when prices exceed by more than 15 per cent the amounts for which the work can be procured from outside the state, recourse may be had to outside printing plants ('07 ch.185); another law orders that legislative printing shall be charged to the public printing account instead of to legislative expense as heretofore and increases the amount appropriated for public printing and binding from \$20,000 to \$30,000 ('07 ch.186).

Governor Harris of Ohio in his annual message called attention to the tardiness in the publication of reports and the great expense of the state's printing and recommended that the fiscal year be changed and that the state printer be obliged to have at least 200 copies of all reports printed for the use of the Legislature by the first Monday in January; the advisability of changing a number of reports from annual to biennial was also referred to; while the Legislature took no final action on these recommendations, it did appoint a joint committee of four to investigate the number of publications printed for the various departments, the feasibility of biennial reports of some of the institutions and the cost of printing, this committee to report to the Governor ('08 p.630).

Oklahoma does not carry out the recommendation of Governor Haskell for a state printing plant, but establishes a State Printing Department controlled by a board composed of the Governor, State Treasurer and State Auditor; this board is to appoint a State Printer at an annual salary of \$2500 whose successors are to be elected at the general elections in 1910 and every four years thereafter; under the direction of the board the State Printer shall superintend and contract for all public printing and binding required by the Legislature, the Governor, the Supreme Court, state institutions and state officers, boards and commissions, also for all bound books and records for district courts, counties and townships; all printing and bookwork is to be submitted to competitive bid after due notice and preference is to be given to printing concerns located in the county for all county printing ('07 ch.65 art.1).

Oregon increases the number of sheep bound copies of the general laws from 1500 to 2000 and of the special laws, similarly bound, from 100 to 240; the Secretary of State, in connection with the officer, board, commission or head of department making the report, is empowered to designate the number of copies of such reports to be printed ('07 ch.103); the custody and distribution of state documents is taken away from the Secretary of State and intrusted to the State Librarian and regulations for this distribution are adopted ('07 ch.86).

Rhode Island empowers the Secretary of State to distribute to public and reference libraries within the state such state publications as are in his custody and in his judgment are available for such use, also to make exchanges with libraries outside the state ('07 ch.1440).

South Dakota establishes a State Printing Commission, composed



of the Governor, Secretary of State and State Treasurer, the Secretary of State formerly acting *ex officio* as Commissioner of Public Printing; in place of the fixed number of copies of the reports of state officers, boards and commissions, the commission is given power to determine the number of copies to be printed, provided that not fewer than 500 nor more than 2000 shall be printed without specific legislative action; the commission is also empowered to award the printing of single reports; the number of copies of the session laws is increased from 1500 to 4000; paper and type to be used are specified; the Governor is authorized to appoint a State Printer, whose compensation is fixed at \$150 per month, to superintend the work done under the provisions of the act; the other sections of the law do not make any important changes in the former law governing public printing ('07 ch.205).

Tennessee requires all printing to be done within the state provided it can be contracted for and done as cheaply as elsewhere ('07 ch.593).

Texas submitted to the people a constitutional amendment the purpose of which seems to have been to enable the Legislature to provide for printing and publishing and supplying paper, stationery and fuel in other ways than by contract with the lowest bidder ('07 p.416). This amendment was rejected August 1907.

In Utah the limitation of 1000 copies is placed upon the edition of the biennial reports of state officers and institutions which the Board of Examiners is authorized to publish and institutions having facilities for printing may publish their own reports ('07 ch.136).

In Vermont town clerks are required to keep in their office the reports of state officers sent to them ('06 ch.97); this state also replaces the Commissioners of State Printing, comprising the Secretary of State, State Auditor and State Librarian, by a Commissioner of Public Printing to be appointed by the Governor for two years at a salary of \$6 per day when actually employed; contracts are to be let after advertising and bids; there is also created under the State Librarian the office of custodian of public documents and to this is intrusted the distribution of documents formerly in the hands of the Secretary of State and State Librarian ('06 ch.214).

Virginia provides for the distribution of the session laws, journals of the Legislature and reports of the various departments to state educational institutions, other educational institutions in the state maintaining libraries and to public libraries in the state ('08 ch.351).

Wisconsin increases the number of copies of the report of the Railroad Commission from 1000 to 2500 and provides for printing



2000 copies of the report of the Commissioners of Fisheries and 3000 of that of the State Forester ('07 ch.519).

In general, the trend in legislation on this subject seems to be toward condensation of reports of officers and boards, smaller editions and general economy in state printing.

Executive recommendations of 1908 were favorably received and resulted in legislation; the ones which failed of enactment in 1907 were those of Governor Hanly of Indiana for a general revision of the Printing Law, including a classification of printing for the letting of bids; of Governor Hagerman of New Mexico that the state printing should not be given to a State Printer elected by the Legislature but should be let to the lowest bidder and commending the provisions in the laws of Colorado and New York; of Governor Haskell already mentioned; of Governor Chamberlain of Oregon that the State Printer be placed upon a salary; of Governor Crawford of South Dakota that the state establish its own printing plant; of Governor Dawson of West Virginia for the establishment of the office of superintendent of public printing to have charge of all printing done by the contractor including the reports of the Supreme Court of Appeals; and of Governor Brooks of Wyoming proposing the condensation of the various state pamphlets.

**History. Records.** On this subject, including sections 2363-69 and 2379 of the Index of Legislation, 1907 and 1908, 37 states enacted 85 laws.

Alabama has taken preliminary steps toward the celebration of the hundredth anniversary of the battle of Tohopeka in 1914 by appointing a commission consisting of the Governor, the Director of the Department of Archives and History and five appointees of the Governor to prepare plans for an appropriate celebration and report to the next Legislature ('07 p.547); the Director of the Department of Archives and History is authorized to contract for printing various compilations, including collections of messages of the governors of the state, of laws creating counties, altering county boundaries, or fixing or changing county seats, a local history collection, histories of Alabama commands in the Civil War, etc.; the expense of such publications is to be paid out of the public printing fund ('07' p.560).

Arkansas continues the Arkansas History Commission and appropriates \$1600 for the work of the commission and for editing, printing and distributing volume two of the publications of the Arkansas Historical Association ('07 no.430).

Colorado appropriates \$2000 for surveying and marking that portion of the Santa Fé trail which lies in the state, the work to be done under the supervision of the state regent of the D. A. R., the State Engineer and the chairman of the D. A. R. Santa Fé trail committee ('07 ch.70).

Idaho provides for the Historical Society of Idaho Pioneers becoming the Historical Society of the State of Idaho; the governing body of the new society is to be a board of three trustees appointed by the Governor and the trustees are authorized to employ a librarian at a salary of \$1000 to act as executive officer of the society; \$3500 is appropriated by the state ('07 p.265).

Illinois authorizes counties, cities, towns and villages to make appropriations for the publication of the proceedings and papers of societies engaged in historic research and for ascertaining and marking historic sites; such publications as may be gotten out under the provisions of this act may also be sold at a price to reimburse the cost of publication ('07 p.374); under an earlier act ('97 p.205) county authorities were empowered to transfer official documents to the State Historical Library or the State University; the scope of this act is now increased by extending the same powers to municipal authorities and by allowing the State Historical Society or any incorporated historical society to become custodian of the records ('07 p.374); at the extra session, the Governor was authorized to appoint a commission of 15 representative citizens to take charge of the Springfield celebration of the Lincoln anniversary ('07 ex. sess. p. 99).

Indiana appropriates \$2500 for the erection of a monument and rebuilding of the old Indian chapel at Menominee provided satisfactory arrangements can be made for the control and repair of the monument and chapel by the county authorities or otherwise ('07 ch.280).

In Iowa the act of 1906 (ch.142) is amended so as to transfer the work of arranging, classifying, labeling, filing and calendaring the old records of state offices from the State Library and Historical Department to the Executive Council and the records are to be turned over by the council to the library when this work has been done; the annual appropriation is likewise raised from \$2000 to \$6000 ('07 ch.157); there is also created a commission to consist of the Governor, the Attorney General, the Adjutant General, the Curator of the Historical Department and one Civil War veteran to be selected by the commander of the Iowa Department of the



G. A. R., to prepare for publication a complete roster of all Iowa soldiers, sailors and marines of the Mexican War, the Civil War, the Spanish-American War, the Philippine War, the Spirit Lake expedition and other service against Indians and state troops rendering active service during the Civil War; \$7500 is appropriated for the expense of making the compilation which is to be printed in an edition of 10,000 copies and supplied free to libraries, posts of the G. A. R. and camps of the Spanish War veterans and to be sold to others at actual cost ('07 ch.223).

Kansas provides that in case of loss or destruction of county records the board of county commissioners may order the secretary of the State Historical Society to transcribe from newspapers, records, documents and other files of the society any publication notice which appeared in any newspaper or other publication in the state on file in the office of the society and such transcript when certified by the secretary is made admissible in evidence; no charge shall be made for making such transcripts unless it be necessary to employ extra help in which case the county shall pay the actual expense thereof ('07 ch.168); the state also accepts title to the historic spot on which Pawnee Rock is situated and the Governor is authorized to appoint trustees ('08 ex. sess. ch.87).

Louisiana creates the office of commissioner of Louisiana military records, who is to be appointed by the Governor and whose duty it shall be to collect and preserve the muster rolls, records and other material relative to Louisiana organizations in the service of the Confederacy and the names of all Louisianians in that service; he is also to prepare a brief history of each organization showing the service rendered; this compilation is to be printed and the Governor is empowered to furnish free copies to the colleges, schools and libraries of the state and to the libraries, colleges and universities of other southern states, to exchange for similar publications of other states and to sell copies to the public at not less than the cost of publication; the Commissioner is also to collect pictures, portraits and photographs of officers and soldiers and of battles as well as military scenes and points of interest in connection therewith; he shall ascertain and report what parishes, cities or towns have caused the rolls of organizations contributed by Louisiana to be put on record; he shall list and mark upon a map of the state all battles and combats which took place during the Civil War; \$1200 per year is appropriated for two years ('08 ch.156).

In Maine the Governor and Council are empowered to appoint



from the membership of the Maine Historical Society a State Historian, whose duties are principally concerned with the educational side of local history; he is to compile historical data of the state and encourage the teaching of the same in the public schools, also to encourage the compiling and publishing of town histories; any town publishing a local history for school use, approved by the State Historian, is to receive \$150 from the State Treasury, provided that such contribution shall not exceed half the total cost of printing and binding; \$500 is appropriated for the expenses of the State Historian ('07 ch.88); the appropriation to aid the Maine Historical Society in its publication of the Documentary History of Maine is continued and increased from \$2000 to \$4000 ('07 r.63); persons, other than Registers of Deeds, having possession of the records of the original proprietors of any town or plantation may deliver them to the Maine Historical Society, which shall cause a true copy to be made and filed in the registry of deeds in the county concerned to be kept there as a public record and to be admissible as evidence in all cases; possessors of such records are to be reimbursed the cost of obtaining possession and the society for the cost of making the transcripts, provided that the sums expended in any year shall not exceed \$500 ('07 ch.108).

Maryland continues the appropriation to the Maryland Historical Society for the publication of the Archives of Maryland ('08 ch.91 p.170), and appropriates \$3000 annually for two years to be applied by the Commissioner of the Land Office to the copying and rebinding of public records in his office ('08 ch.606 p.169).

Massachusetts appropriates \$7500, on condition that the city of Boston appropriate an equal amount, to restore the old provincial state house as a historic and patriotic memorial ('07 ch.385); by chapter 57 of the laws of 1908 the use of stamping pads on public records is authorized when such stamping pads have been approved by the Record Commissioner; in 1908 the amount available for the publication of the records of Massachusetts soldiers and sailors in the Civil War was changed from \$10,000 fixed by the act of 1899 (ch.475) to such amount as the General Court may appropriate and by separate act \$11,000 was appropriated for the current year ('08 ch.491, 634).

The Michigan Pioneer and Historical Society receives its usual appropriation of which \$1000 per year is expressly designated for use in building up a historical museum ('07 no.62); the Adjutant General is directed to prepare for publication regimental histories,

where not already provided for, of all soldiers and sailors credited to the state who served in the Civil War, Spanish-American War or Philippine Insurrection; such records are to be published by the state in seven volumes and an edition of not more than 1000 copies; an appropriation of \$2000 is made ('07 no.139); the Adjutant General is also directed to furnish the military or naval history of any soldier or sailor enlisted from the state during the Civil or Spanish-American Wars without expense to the applicant and \$1000 annually for two years is appropriated to cover the expenses of the necessary printing, postage and clerical service ('07 no.242).

In Missouri cities of 400,000 inhabitants, the law applying therefore only to St Louis, are authorized to establish and maintain art museums and may submit to the electors of the city whether they will levy a one fifth mill tax for this purpose; the act also provides for an administrative board of nine members ('07 p.94).

Nebraska takes the first steps toward the erection of a building for the State Historical Society by appropriating \$25,000 for the erection of the basement story of one wing to be used by the society for its museum and library and for the work of the Legislative Reference Department ('07 ch.146).

The Nevada Historical Society is granted standing as a state institution and its reports are to be published by the state; it is also granted 60 bound copies of the publications of the state except the Supreme Court Reports for exchange with other institutions; \$2000 is appropriated for two years ('07 ch.96).

By act of the New Hampshire Legislature the clerk of every town and city is required to forward annually before the first of September to the New Hampshire Genealogical Society one copy of each printed annual report, including those of school boards, health officers and fire departments ('07 ch.41); the Governor and Council are also authorized and directed to appoint some suitable person to compile, arrange and annotate the charters, commissions to royal governors, state constitutions and amendments thereto, constituting the organic law of the state, in such form as may be approved by the editor of the work to be published by the United States on this subject ('07 ch.167).

In 1907, New Jersey made the proceedings of the annual encampment of the Department of New Jersey of the G. A. R. a part of the military archives of the state when properly certified and forwarded to the Adjutant General of the state and provided that such part of these proceedings as shall be approved by the Ad-



jutant General shall be printed and bound and copies furnished to each G. A. R. post and to each public library in the state ('07 ch.76); the following year it was further provided that 500 advance copies of the annual report of the department commander and other officers should be printed for the use of the annual encampment ('08 ch.181); for the better preservation of original Civil War records in the custody of the Adjutant General \$1000 is appropriated ('08 ch.122).

New Mexico authorizes the Governor to convey "the Palace," which is described as the oldest public building and the most historic edifice in the United States and the seat of government in New Mexico for three centuries, to the United States, on condition that it be accepted and declared a National Monument and that the use and custodianship be granted to the Archaeological Institute of America as the home of its proposed school of American archeology ('07 p.302).

New York accepts the conveyance by William Pryor Letchworth of about 1000 acres in Wyoming and Livingston counties for the purpose of a public park or reservation subject to the life tenancy of the grantor; after the death of the grantor the control and jurisdiction is conferred upon the American Scenic and Historic Preservation Society ('07 ch.1); authority is also granted for the transfer from the office of the Secretary of State to the State Library of certain unbound files of election returns, 1838-1905, and election tabulated statements covering the same period ('07 ch.274); in 1907 a preliminary commission on the Champlain Tercentenary celebration was appointed ('07 p.2511) and the following year another, to consist of five appointees of the Governor, three senators and three members of the assembly, was provided for ('08 ch.149) and \$50,000 appropriated ('08 ch.466); to the Hudson-Fulton Celebration Commission were added the mayors of cities and presidents of certain villages in the state ('08 ch.217); the city of Yonkers is authorized to convey to the state the title to the Philipse manor house and grounds in Yonkers and the custody of the property is granted to the American Scenic and Historic Preservation Society whenever title shall vest in the state ('08 ch.168); the city of New York is likewise authorized to acquire the Alexander Hamilton mansion, known as Hamilton Grange, and move it to a site in that portion of St Nicholas Park formerly constituting a part of the Alexander Hamilton farm ('08 ch.220).

The term of office of the members of the State Historical Commission of North Carolina is extended from two to six years and



they are allowed actual expenses for not exceeding four meetings annually of not more than four days each; the scope of the work of the commission is very much extended and in addition to the collection, preservation and printing of historical materials, it is to care for the proper marking of battlefields, historic houses and places, to encourage historical study in the schools, to stimulate historical research in the state and to coöperate in making a historical exhibit at the Jamestown Exposition; any state, county, town or other public official is empowered to turn over to the commission books, records or documents not in current use in his office; the appropriation of \$5000 annually in addition to funds derived from the sale of publications and fees for copies takes the places of the former appropriation of \$500 ('07 ch.714).

North Dakota passed three acts relative to the State Historical Society, providing for the publication of separates of various portions of its report not to exceed 50 each ('07 ch.130), appropriating \$750 toward the salary of a field officer and \$500 toward that of curator of the museum ('07 ch.133), and raising the annual appropriation from \$1250 to \$2000 ('07 ch.132).

Ohio has appointed a commission of five to coöperate with the citizens of Put-in-Bay in arranging for a fitting celebration of the 100th anniversary of the Battle of Lake Erie in 1913 ('08 p.626); a census by the local assessors of all soldiers of the Mexican, Civil, Spanish-American and Philippine Wars is provided for, returns to be made through the county auditor to the Commissioner of Soldiers' Claims ('08 p.96).

Oklahoma authorizes the transfer to the Oklahoma Historical Society of any seal, record, original paper or other document not specifically required by law to be retained as a part of the records of a public office ('08 ch.42 art.1).

Pennsylvania encourages the publication of histories of the various volunteer organizations by providing for the purchase by the state of 400 copies at not to exceed two dollars per volume when the work is shown to the satisfaction of the Governor, Auditor General and Adjutant General to be accurate and reliable; the total amount expended is however not to exceed \$8000 for the next two fiscal years ('07 no.371); \$2000 is appropriated for assistance to the Pennsylvania Federation of Historical Societies in its preparation and publication of a complete bibliography of the commonwealth, the amount to be expended under the supervision of the State Librarian ('07 no.372); the State Librarian is authorized to

have prepared for publication not to exceed 15 volumes of archives, of such matter as he may deem advisable; the editor of these volumes is to be paid \$500 per volume for selecting and arranging copy, reading proof and making indexes, and an edition of 2000 copies is to be printed ('07 no.28); \$1500 is appropriated for making facsimiles with durable ink on parchment of documents and papers now in the custody of the State Librarian ('07 no.466); lands and buildings of historic interest as connected with the colonial or Revolutionary period are exempted from the power of eminent domain ('07 no.156).

Tennessee appointed a joint legislative committee of five to examine the condition of the records and archives of the state and to report what is necessary for their preservation ('07 p.2189).

Texas provides for the purchase of additional land on the site of the battlefield of San Jacinto and creates the San Jacinto state park and the San Jacinto State Park Commission; for the purchase of land and the proper care and improvement of the park, \$25,000 is appropriated ('07 ch.48).

As a means of protecting the relics found within the state, Utah makes it a misdemeanor for any person to remove from any public land in the state, or any land not his own and without the consent of the owner, any relics consisting of baskets, jars, cups, urns, utensils, bones, bodies, mummies or other relics of any ancient races of people; it is likewise a misdemeanor to destroy or efface any hieroglyphics ('07 ch.31).

Vermont appoints a commission consisting of the Governor and six other members appointed by him to confer with the authorities of New York and Canada relative to the celebration of Champlain's discovery and to report to the next Legislature ('06 ch.459); it also authorizes the exchange of certain lands near the Bennington Battle Monument and conditionally appropriates \$1500 for the erection of a house for the caretaker of the monument ('06 ch.233); \$700 is likewise appropriated for the preservation of certain war records in the office of the Adjutant General ('06 ch.222).

Virginia continues for two years more the office of Secretary of Virginia Military Records originally established in 1904; the salaries of the secretary and his chief clerk are increased and the total appropriation for the office rises from \$7600 for two years to \$5000 per annum ('08 ch.158).

Washington took no action though Governor Mead in his message to the Legislature stated that many public records had been



lost or gone to enrich private collections and others were liable to loss and were valueless to officials and to students of history for lack of systematic arrangement, proper cataloguing and indexing, and recommended the creation of a department of archives.

Wisconsin empowers state officers to transfer to the State Historical Society any records, documents etc., not specifically required by law to be retained in his office, five years or sooner after current use; the secretary of the Historical Society or his authorized representative is empowered to certify copies and the society is to classify, arrange and index such records and make them accessible to all persons interested ('07 ch.88); the annual appropriation to the work of the Historical Society is increased from \$15,000 to \$20,000 ('07 ch.533); Registers of Deeds are required to file in their offices all records, documents and papers of any post of the G. A. R. and of any historical society in their respective counties ('07 ch.650); the commission created in 1905 (ch.298) to devise a plan for a history of the part which Wisconsin and her citizens took in the Civil War is continued with greatly increased powers under the title, the Wisconsin History Commission; the commission is authorized to secure the reprinting of rare published material and the publication of contemporary manuscripts, to stimulate research among the younger generation of students, to secure the preparation of meritorious recollections, company and regimental histories and scholarly monographs and papers based upon the materials secured by the above methods, and to still farther add to the collection already existing in the State Historical Society, all to be held for the benefit of the state and in the official archives thereof; it is further provided that the commission may accept gifts and discharge the trusts thereby created but may incur no obligation on behalf of the state; the Printing Commissioners are directed to publish such material as may be selected by the History Commission and in such manner as may be prescribed by the commission ('07 ch.378).

**Memorials. Monuments.** During the period covered by this survey, 32 states passed 95 laws relating to memorials and monuments, including such subjects as return of Confederate battle flags, medals, memorial buildings, battlefield memorials, memorials to individuals and war relics. Both New Jersey ('08 p.728) and Ohio ('08 p.625) have authorized the return of battle flags captured from Southern troops. Indiana ('07 ch.77), Pennsylvania ('07 no.114, 312) and Ohio ('08 p.126) took action relative to the erection of



buildings as memorials to the veterans of the Civil War. The most general act relating to battlefield memorials is that of Alabama creating a monument commission, consisting of the Governor, the commanders of the state divisions of Confederate Veterans and Sons of Confederate Veterans, the Director of the Department of Archives and History and eight Confederate veterans appointed by the Governor; the commission is to represent the state in matters and inquiries relating to the location of Alabama troops, in marking battlefields and is to have charge of erecting monuments to Alabama troops; for this purpose \$25,000 a year is appropriated ('07 p.549, 753). Indiana appropriated \$60,500 to be expended for monuments on the Tippecanoe battlefield, at Vicksburg and at the site of Andersonville prison ('07 ch.44, 92, 208). New Jersey appropriated \$23,000, the largest item being an increase in the appropriation for the Princeton battle monument from \$15,000 to \$30,000 ('07 ch.13, 64; '08 ch.110). The greatest appropriation made by any state was that of Pennsylvania and amounted in all to \$249,000; one item was \$150,000 for the Gettysburg Battlefield Memorial Commission and was but a reappropriation of a sum previously voted which had lapsed ('01 no.451, '07 no.504); the other items included monuments at Salisbury, N. C., Shiloh, Cold Harbor, Culpepper, Driftwood, Monocacy, Petersburg and Winchester and the publication of reports of dedications ('07 no.366, 384, 437, 447, 455, 457, 462, 470, 485, 672). Wisconsin continued the Wisconsin Vicksburg National Military Park Commission and appropriated \$100,000 for the erection of a permanent memorial and additional markers and tablets at Vicksburg ('07 ch.541). Other states making appropriations running from \$300 to \$15,000 for this purpose were: Connecticut, Florida, Maine, Massachusetts, Rhode Island, Vermont and Virginia; references to the particular acts will be found in the Index to Legislation. There were 39 acts relating to memorials to individuals most of them making some appropriation; memorials for the following received appropriations of \$10,000 or over: Jefferson Davis (Ala. '07 p.789), Henry Clay (Ky. '08 ch.27), Stevens T. Mason, first governor of the state (Mich. '07 p.506), Gen. George A. Custer (Mich. '07 no.296), Col. William Colville (Minn. '07 ch.70), John C. Calhoun (S. C. '07 no.373) and Gen. Sam Houston (Tex. '07 ch.179).



*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 39V

BIBLIOGRAPHIC NOTES ON SESSION LAWS, REVISIONS, AND CONSTITUTIONAL CONVENTION PUBLICATIONS

T. L. COLE, WASHINGTON, D. C.

**Session laws 1907  
January 1 to December 31**

Sessions were held during the year, beginning in the months stated (all in 1907 except as stated), and were printed in the number of volumes stated, in the table following:

STATES AND TERRITORIES	REGULAR ANNUAL	REGULAR BIENNIAL	EXTRA OR SPECIAL	NO. OF VOLUMES
Alabama.....	.....	<i>a</i> Jan.....	<i>b</i> July.....	2
Alabama.....	.....	.....	Nov.....	2
Arizona.....	.....	Jan.....	.....	1
Arkansas.....	.....	Jan.....	.....	1
California.....	.....	Jan.....	<i>c</i> Nov.....	1
Colorado.....	.....	Jan.....	.....	1
Connecticut.....	.....	Jan.....	.....	2
Delaware.....	.....	Jan.....	<i>d</i> May 1906....	1
Florida.....	.....	April.....	.....	1
Georgia.....	June.....	.....	.....	1
Hawaii.....	.....	Feb.....	.....	1
Idaho.....	.....	Jan.....	.....	1
Illinois.....	.....	<i>e</i> Jan.....	.....	1
Indiana.....	.....	Jan.....	.....	1
Iowa.....	.....	<i>f</i> Jan.....	.....	1
Kansas.....	.....	Jan.....	.....	1
Louisiana.....	.....	.....	<i>g</i> Nov.....	1
Maine.....	.....	Jan.....	.....	1
Massachusetts.....	Jan.....	.....	.....	1



STATES AND TERRITORIES	REGULAR ANNUAL	REGULAR BIENNIAL	EXTRA OR SPECIAL	NO. OF VOLUMES
Michigan.....	.....	Jan.....	.....	2
Michigan.....	.....	.....	Oct.....	1
Minnesota.....	.....	Jan.....	.....	1
Missouri.....	.....	Jan.....	April.....	1
Montana.....	.....	Jan.....	.....	1
Nebraska.....	.....	Jan.....	.....	1
Nevada.....	.....	Jan.....	.....	1
New Hampshire.....	.....	Jan.....	.....	1
New Jersey.....	Jan.....	.....	June-Oct.....	1
New Mexico.....	.....	Jan.....	.....	1
New York.....	Jan.....	.....	<sup>h</sup> July.....	2
North Carolina.....	.....	Jan.....	.....	2
North Dakota.....	.....	Jan.....	.....	1
Oregon.....	.....	Jan.....	.....	1
Pennsylvania.....	.....	Jan.....	.....	1
Porto Rico.....	<sup>i</sup> Jan.....	.....	.....	1
Rhode Island.....	Jan.....	.....	.....	1
South Carolina.....	Jan.....	.....	.....	1
South Dakota.....	.....	Jan.....	.....	1
Tennessee.....	.....	Jan.....	.....	1
Texas.....	.....	Jan.....	April.....	2
Utah.....	.....	Jan.....	.....	1
Washington.....	.....	Jan.....	.....	1
West Virginia.....	.....	Jan.....	Feb.....	1
Wisconsin.....	.....	Jan.....	.....	1
Wyoming.....	.....	Jan.....	.....	1
43 states.....	7	35	11	52

*a* This is the regular quadriennial session.

*b* This is an adjourned session the laws of which were printed with those of the regular session.

*c* Printed with the regular session 1909 but also in a separate pamphlet.

*d* Printed with the regular session 1907.

*e* An extra session was also held beginning in October 1907 and continuing until May 1908. It will be listed with the sessions of 1908.

*f* Under an amendment to its Constitution the regular biennial sessions of Iowa are held in January 1907 and biennially thereafter.

*g* Also printed with the regular session 1908.

*h* Printed with the regular session 1907, 2 volumes.

*i* Contains laws extra session July 1906 also.

Session laws 1908  
January 1 to December 31

Sessions were held during the year, beginning in the months stated (all in 1908 except as stated), and were printed in the number of volumes stated, in the table following:

STATES AND TERRITORIES	REGULAR ANNUAL	REGULAR BIENNIAL	EXTRA OR SPECIAL	NO. OF VOLUMES
Georgia.....	June.....	.....	<i>a</i> Aug.....	1
Illinois.....	.....	.....	Oct. 1907 to May 1908...	<i>b</i> 1
Indiana.....	.....	.....	Sept.....	1
Iowa.....	.....	.....	Aug.....	1
Kansas.....	.....	.....	Jan.....	1
Kentucky.....	.....	Jan.....	.....	1
Louisiana.....	.....	May.....	.....	1
Maryland.....	.....	Jan.....	.....	1
Massachusetts.....	Jan.....	.....	.....	1
Mississippi.....	Jan.....	.....	.....	1
Nevada.....	.....	.....	<i>c</i> Jan.....	1
New Jersey.....	Jan.....	.....	.....	1
New York.....	Jan.....	.....	<i>d</i> May.....	2
North Carolina.....	.....	Jan.....	.....	1
Ohio.....	.....	Jan.....	.....	1
Oklahoma.....	.....	.....	<i>e</i> Dec. 1907....	1
Porto Rico.....	Jan.....	.....	.....	1
Rhode Island.....	Jan.....	.....	.....	1
South Carolina.....	Jan.....	.....	.....	1
Vermont.....	.....	Oct.....	.....	1
Virginia.....	.....	Jan.....	.....	1
West Virginia.....	.....	.....	Jan.....	1
22 states.....	8	7	9	23

*a* Printed with the regular session 1908.

*b* The laws of this session and the regular session of January 1907 are also printed together in 1 volume.

*c* Also printed with the regular session 1909.

*d* Printed with the regular session, 2 volumes.

*e* This is the first session of the *state* Legislature.

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<sup>1</sup> List prepared by New York State Library.



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*New York State Education Department*

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39W

**COURTS AND THE PRACTICE OF LAW**

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**Courts**

**Tenure and term.** During the period under review there was no legislation of importance affecting the tenure and term of judges. The few states which have resisted the movement for popular election of the judiciary show no disposition to modify the system of indirect election or appointive tenure and the same is true regarding the term of office during good behavior which is still retained in several states. Oklahoma, which has the system of popular election of judges, established ('08 ch.28, art.1) a Criminal Court of Appeals of three members to be appointed by the Governor with the consent of the Senate. As this court is to terminate on January 1, 1911, unless continued by the Legislature, this act can not be considered a step in the direction of appointive tenure.

**Compensation.** The last biennial period gave additional evidence of the general tendency to increase judicial salaries, which has been in progress during the present decade (Review of Legislation 1903, p. 82-4; 1904, p. 81-2; 1905, p. 27-29; 1906, p.109-10). The Governors of five states called the attention of their respective Legislatures to the importance of this question (Governors Messages 1907, p.112-13; 1908, p.64) with favorable results in all except one case. In more than a dozen other states important increases were made by the Legislature without the special recommendation of the Governor. In many states the Constitution has been an obstacle which has been overcome in some cases by the doubtful expedient of granting allowances to the judges for expenses which are purely fictitious. In his message to the Legislature Governor Jelks stated that "living is more than twice as high in Alabama as it was when some of these salaries were provided for" and the Legislature in-



creased the salaries of judges of the Supreme Court from \$3600 to \$5000 ('07 p.109) and chancellors and circuit judges from \$2500 to \$3200 and \$3000 respectively ('07 p.169). In Arkansas the salaries of judges of the Supreme Court were increased from \$3000 to \$4000 ('07 no.131), while chancellors, some of whom had received only \$2000, were given a uniform salary of \$2500 ('07 ch.119). Similar increases in salaries of judges were made in other states as follows: California ('07 ch.159) Superior Court in San Francisco and Los Angeles counties from \$4000 to \$6000 and in a large number of other counties from \$3000 and \$4000 to \$4000 and \$5000 respectively; Idaho ('07 p.465) Supreme Court from \$3000 to \$5000 and District Court from \$3000 to \$4000 (A constitutional amendment, proposed in 1907, p.592, and adopted in November 1908, abolishes the rule that the salaries of judges of above court should be \$3000 until otherwise provided by law, and provides that Supreme Court judges shall receive \$4000 until otherwise provided by law and leaves the salary of District judges to be determined by the Legislature); Illinois ('07 p.331) Circuit and Superior Courts from \$3500 to \$5000; Indiana, Circuit and Superior Courts from \$2500 to \$3500 payable by state ('07 ch.115), Criminal Court from \$2500 and \$3200 to \$4000 payable by county ('07 ch.116); Kansas, recommended by Governor Hoch (Governors Messages 1907, p.112), Supreme Court from \$3000 to \$4000, District Court and Court of Common Pleas from \$2500-\$3000 to \$3000 uniformly ('07 ch.203); Maryland ('08 ch. 180, p.76) chief judge of first judicial circuit and judge of Court of Appeals for Baltimore from \$4500 to \$5800; Michigan, constitutional amendment ('07 p.502) adopted in April 1907, extends to a number of new counties the provision whereby certain counties may give additional compensation to circuit judges; Minnesota ('07 ch.175), Supreme and District Courts from \$5000 and \$3500 to \$7000 and \$4200 respectively; Nebraska, constitutional amendment ('07 ch.202) adopted in November 1908, Supreme and District Courts from \$2500 to \$4500 and \$3000 respectively; Nevada ('07 ch.13) Supreme Court from \$4500 to \$5000 (Under act of same year (ch.129) the judge of the fifth judicial district is to receive \$7000 instead of \$4000 which is the normal salary of District judges; another act ('07 ch.35) increases the maximum allowed District judges for traveling expenses from \$450 to \$1000); New Jersey ('08 ch.32) Court of Common Pleas in counties of less than 20,000 population increased from \$1200 to \$1800; North Carolina ('07 ch.988) Supreme and Superior Courts from \$3000 to \$3250; North

Dakota ('07 ch.77) District Court from \$3500 to \$4000 (This increase was not to apply to existing judges but they were to receive \$500 annually for expenses which was not to be given to those thereafter elected); Washington, recommended by Governor Mead, who called attention to the fact that "the tendency in the commonwealths of the Union is steadily toward a higher paid judiciary" (Governors Messages 1907, p.113) Supreme Court from \$4000 to \$6000 ('07 ch.57). It was also provided that counties of first-class may increase salary of judge of Superior Court from \$3000 to \$4000.

Reference has been made above to the practice of granting allowances for expenses in lieu of increases in salaries. In Connecticut ('07 ch.101) the salaries of judges of the Supreme and Superior Courts were increased \$1500 and allowance of that amount for expenses was abolished. In New York a constitutional amendment ('07 p.2506) was referred to the Legislature of 1909 increasing the salaries of the associate judges and chief judge of the Court of Appeals from \$10,000 and \$10,500 to \$15,000 and \$15,500 respectively and abolishing the allowance of \$3700 annually for expenses. Governor Hughes in his message of 1908 (Governors Messages, p.64) criticized the method of making allowances in lieu of expenses and recommended a constitutional amendment similar to the above for justices of the Supreme Court, but the Legislature failed to carry out his recommendation.

In Florida a constitutional amendment was submitted ('07 p.767) striking out provision fixing \$2500 and \$3000 as the salaries of Circuit and Supreme judges respectively and providing that such salaries should be fixed by the Legislature, but this was rejected by the voters in November 1908. The Legislature, however, increased the allowance for traveling expenses of Circuit judges from \$300 to \$750. In Missouri a constitutional amendment ('07 p.458) affecting the organization of the Supreme Court (*see* below) provided for increasing the salaries of judges of the Supreme Court and of the Kansas City Court of Appeals from \$4500 and \$3500 respectively to \$5500, but the amendment failed of ratification in November 1908.

Provision for retiring allowances are of as much importance as increases in judicial salaries. Governor Fort of New Jersey indicated his opposition to excessive salaries which might become the chief inducement to enter upon judicial duties but advocated a retiring allowance which would make the income of judges secure, despite old age or ill health (Governors Messages 1908, p.64). The Legislature ('08 ch.313) adopted this recommendation, provid-



ing a retiring allowance of one third of the last salary for chancellors, vice chancellors and justices of the Supreme Court who have attained the age of 73 years after 21 years of service or who have become incapacitated during their terms of office. Massachusetts, which has a provision for a pension of three fourths of the salary for judges who attain the age of 70 years after 10 years service, extended the same to apply to justices of the Land Court ('08 ch.179).

As was pointed out in a previous article (Review of Legislation 1906, p.110) the tendency to increase judicial salaries is part of a general movement for raising the compensation of officials and extends to the clerical and administrative officers of courts. This is particularly true of the period under review, during which numerous acts were passed increasing the compensation or allowance for expenses in the case of court clerks, reporters, marshals, stenographers and public prosecutors. In the case of the latter there was some evidence of the tendency to substitute a salary for fees as the method of compensation. The district attorney of Cook county, Illinois, was given a salary of \$10,000 in lieu of all fees ('07 p.323). *See also* Mo. '07 p.274.

**Supreme Court.** In a number of states the governors made recommendations for the relief of the Supreme Court, generally advocating an increase in the number of judges. In Missouri, where the court is several years behind the docket, Governor Folk recommended a commission (Governors Messages 1907, p. 109), but the Legislature decided ('07 p.458) in favor of a constitutional amendment increasing the number of judges of the Supreme Court from 7 to 9 and providing for three divisions of the court instead of the two which exist at present. This amendment was rejected by the voters in November 1908. Similar action was taken by the voters in Oregon in June 1908, with reference to a constitutional amendment ('07 p.506) which proposed to increase the number of judges of the Supreme Court and to relieve them of the duty of holding the Circuit Courts. On the other hand favorable action by the voters was secured in this same year for a constitutional amendment in Nebraska ('07 ch.202) which had been recommended by Governor Mickey (Governors Messages 1907, p.110), and in North Dakota ('07 p.458) increasing the number of judges of the Supreme Court from 3 to 7 and 3 to 5 respectively. In New York a constitutional amendment ('07 p.2506), referred to the Legislature meeting in 1909, proposes to add two additional associate judges of the Court of Appeals and abolish the provision under which the Governor designates justices of the Supreme Court to serve as associate judges



of the Court of Appeals in cases in which that court was behind in its docket.

In New Jersey the reorganization of the judicial organization has been agitated for a number of years. A commission provided for in 1905 submitted proposed amendments to the Constitution, designed to improve the system. Governors Stokes and Fort strongly urged the Legislature to submit these amendments to the voters (Governors Messages 1907, p.109; 1908, p.61) but failed to secure favorable action. A similar result attended the recommendation of Governor Dawson of West Virginia (Governors Messages 1907, p.110).

**Supreme Court Commission.** It has been indicated above that Governor Folk recommended the plan of a temporary Supreme Court Commission to relieve the congested docket of the Missouri Supreme Court. In Oregon the same Legislature which sought to increase the number of judges of the Supreme Court (*see* above) undertook to provide for the period before the amendment could be adopted by providing ('07 ch.88) for the appointment by the Governor of two members of such a commission to serve for a term of two years.

**Intermediate Courts.** In previous Reviews attention has been called to the tendency in many states to attempt a solution of the problem of congestion by the establishment of one or more intermediate Appellate Courts. In the period under review the only example of this plan is an Oklahoma Act ('08 ch.28, art.1) creating a criminal Court of Appeals of three members to have exclusive appellate jurisdiction in all criminal cases appealed from county and district courts except that constitutional questions must be certified to the Supreme Court for determination. The measure is evidently intended for temporary relief as it is provided that the court shall terminate in January 1, 1911, unless continued by the Legislature.

As in previous years there is to be found legislation in a number of states increasing the number of intermediate courts which exercise original jurisdiction. Alabama ('07 p.367) increased the number of judicial circuits from 16 to 17. Massachusetts ('07 ch.286) added two to the number of associate justices of the Superior Court making the total 24, while North Dakota ('07 ch.68) and Nevada ('08 ch.14) increased the number of judicial districts from 8 and 6 to 10 and 7 respectively. Some states fix the number of judicial districts by constitutional provision. In Florida an amendment proposed in 1907 (p. 768), giving the Legislature authority to establish new judicial circuits, was rejected by the voters in 1908. In Pennsylvania a constitutional amendment ('07 p.833), referred to

the Legislature meeting in 1909, confers upon the Legislature authority to establish a separate court in the county of Philadelphia with exclusive jurisdiction in criminal matters.

**Justices of the peace.** Numerous acts were passed relating to justices of the peace but no important developments appear. In Massachusetts the constitutional amendment, first proposed in 1906 (Review of Legislation 1906 p. 113), authorizing the Governor with the consent of the Council to remove justices of the peace and notaries public, was approved by the Legislature in 1907 (r.123) and adopted by the voters in November of that year.

**Municipal and police courts.** In Illinois ('07 p.225) and New York ('07 ch.603) acts were passed providing for modifications in the law organizing the Municipal Courts of Chicago, and the city of New York, respectively. In Missouri an act ('07 p.212) providing for a Court of General Sessions in St Louis with criminal jurisdiction for the determination of all preliminary examinations of charges of felony, was declared unconstitutional in *State Ex rel. v. Nast*, 209 Mo. 708. A New York act ('07 ch.598), which increased the number of city magistrates in the city of New York, made provision for the holding of a night session of such magistrate's court.

South Dakota authorized ('07 ch.191) cities of over 5000 population to establish municipal courts, while Iowa ('07 ch.8) reduced the population of cities authorized to establish Superior Courts from 5000 to 4000. In Wisconsin ('07 ch.651) the Board of Supervisors of each county was given authority to establish special municipal courts.

**Public prosecutor.** There is some evidence of a tendency to improve the efficiency of judicial administration. The Governors of Indiana, Missouri, Nebraska and West Virginia called attention to the decentralized character of such administration under which the chief executive was unable to control the acts of public prosecutors and other officials. (Governors Messages 1907, p.114).

Governor Folk's recommendation that judicial proceedings should be provided for the removal of such derelict officials failed to receive legislative approval in Missouri, but such action was taken in Nebraska ('07 ch.87) where Governor Mickey had recommended more radical legislation conferring upon the Governor absolute power of removal. In West Virginia Governor Dawson recommended that the Governor be given the power to appoint the Attorney General and prosecuting attorneys and the authority, "properly guarded and restricted, to remove any officer (but not judges,



of course) who is incompetent, corrupt, or who fails to do his duty." Wisconsin ('07 ch.153) authorized the Governor to suspend a district attorney during the investigation and determination of charges made against him. The same state ('07 ch.542) made it unlawful under penalty of forfeiture of office, for a district or city attorney or judges to be retained by a public utility corporation, while Mississippi ('08 ch.129) made it unlawful for either the District Attorney or his associate in practice to represent such a corporation.

### Practice of law

During the period under review there has been considerable evidence of the tendency to raise the standard of the legal profession. One state and one territory abandoned the old method under which applicants were admitted by the District Court after examination by attorneys appointed for that purpose. Arizona ('07 ch.76) provided a Board of Examiners appointed by the Supreme Court for the purpose of passing upon all candidates for admission to the bar, while Florida ('07 no.55) provides that the examination should be given by the Supreme Court itself. Iowa ('07 ch.11) and South Dakota ('07 ch.72) increased from three to four years the high school course required as preliminary to the examination for admission. Louisiana ('07 no.66), Maryland ('08 p.6 ch.595, 638) and Rhode Island ('07 ch.1450) provide penalties for unlicensed persons who practice law.

Barratry was defined and made subject to penalty in Maryland ('08 ch.413 p.78), Massachusetts ('07 ch.443), New Mexico ('07 ch.29) and Oregon ('07 ch.211). Provisions relating to disbarment were enacted in Connecticut ('07 ch.120, 192) and North Carolina ('07 ch.941). Nevada ('07 ch.69) and North Carolina ('07 ch.70) introduced the requirement of good moral character, and Tennessee ('07 ch.69) permits women to practise law.

The old plan of exempting graduates of law schools from the examination was adopted in Alabama ('07 ex.sess. p.201) as regards graduates of the law department of the State University, while California ('07 ch. 438) extends to the graduates of the College of Law of the University of Southern California the same privilege of exemption already enjoyed by graduates of the Hastings College of Law of the State University, and Nebraska ('07 ch.2) authorizes the Supreme Court to designate other colleges of law in that state to enjoy the same privilege of exemption from examination as is possessed by graduates of the College of Law of the University of Nebraska.





## CORPORATIONS

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Corporate legislation in the United States during the years 1907 and 1908 was both interesting and important. In but few classes of statutes is the social, economic and political complexion of an American state more accurately mirrored than in the laws which are framed to deal with the problem of corporate organization and control. Conservatism, radicalism, jealousy, greed, wisdom and ignorance all find their place in the annual grist of corporation laws turned out by the law-making bodies.

**Organization and powers.** The problem of initial regulation and control of incorporation is one which is attracting the attention of many thoughtful students of the situation. The policy of the states ranges from that of practically unsupervised incorporation by compliance with the formalities of a general statute to the strictest and often arbitrary supervision of proposed charter grants. In the majority of states the duties of the officer charged with the acceptance or rejection of incorporation papers are purely ministerial and formal. In a few states, however, they are quasi-judicial and frequently savor of the despotic.

Governor Cummings of Iowa, in his message to the Legislature of 1907 said "It seems to me that one of the imperative demands of the time is to require the articles of incorporation of every corporation hereafter organized to be approved by some tribunal, such as the Executive Council, with the Attorney General added, before they are permitted to be filed. Even this measure of supervision would prevent the establishment of a large number of associations either unlawful and fraudulent in their purpose or imperfect in their plan of organization." The result was the passage of a law ('07 ch.70) which carried the recommendation into effect. It is a statute worthy of imitation in states where the volume of incorporation is not too great to render its adoption impracticable. A recommendation in 1907 by Governor Cutler of Utah, similar in its nature, failed of adoption.

One of the interesting developments in the rise to popularity of the corporation as a business medium in the United States is the awakening realization of Legislatures to the possibilities for state revenue which the incorporation of companies offers. It is a phase of the question which is no longer novel. Among the more successful states in the effort to attract incorporators, Delaware has long been prominent. The rise of several of the western states to positions of active rivalry roused the Delaware Legislature in 1907 to the passage of two laws which are of general interest as illustrating the methods which states employ to attract this class of revenue producing business. One law ('07 ch.263) provided for the printing, in pamphlet form, of 3000 copies of the general corporation law together with the annual franchise tax law "for public distribution in order to further the interests of the state." The other ('07 ch.174) cut the fees payable upon incorporation almost in half. This act makes Delaware one of the cheapest "reputable" states for incorporation. Companies with an authorized capital of \$2,000,000 or over may now be formed upon payment of a state incorporation tax of 5 cents per \$1000 as against 50 cents per \$1000 in New York.

Idaho encouraged outside capital to incorporate under her statutes by reducing the requisite number of resident incorporators to one, in place of the former requirement that a majority must live in the state ('07 p.540).

South Dakota is one of the states which has come into prominence very rapidly as a favorite home for foreign corporations, particularly mining companies. A law of 1907 (ch.104) made several changes in the law to render it more attractive to outside capital. Corporations are now permitted to maintain any number of offices outside the state instead of a single office. Only one incorporator instead of three need be a resident. Where stock is issued for property the "judgment of the board of directors made in good faith and entered in the minutes of the corporation shall be conclusive." This is a concession to attract business which has been adapted from the corporation laws of a number of states which have followed the lead of New Jersey in the scramble for business. Its danger has been so often illustrated in the protection of flagrant cases of stock watering that comment is unnecessary. The courts of New York and New Jersey, in both of which states similar laws are in force, have been doing their best to mini-



mize the evil by "judicial interpretation" of "judgment," but with rather discouraging results.

Maryland passed a general revision of the corporation laws ('08 ch.240 p.23). The statute was prepared under the direction of the Baltimore Bar Association. As stated in the message of Governor Warfield recommending its passage, "one of the beneficial effects of the passage of this law will be to lessen the number of special acts of incorporation, to the great saving of the state's time and money." The law is, on the whole, progressive and in line with the best of the state incorporation acts.

California, which has always been one of the most conservative states with respect to powers granted to corporations, now permits the classification of stock into common and preferred. The statute brings the state into line with the policy of practically all the other states in this matter ('07 ch.278). A further step toward liberalization was the adoption of a proposed constitutional amendment for submission to the people, permitting the extension of the period of corporate existence of all except "quasi public" corporations for a period of not exceeding 50 years ('07 p.1240). This is a very necessary privilege from the standpoint of the corporation, the lack of which has prevented many persons from incorporating under California law. The Legislature later in the session of 1907 passed an act carrying the provisions of the proposed amendment into effect, without waiting for its adoption. The statute was promptly declared unconstitutional ('07 ch.274; *Boca Mill Co. v. Curry* 97 P. 1117 [1908]).

Indiana extended the general business corporation act to cover the incorporation of companies to print and publish newspapers and books and to engage in commercial and job printing and book binding ('07 ch.270). The same amendment permitted general mercantile corporations to secure the power to manufacture products dealt in by them ('07 ch.270).

Vermont now permits the formation of telegraph, telephone and real estate companies under the general act ('06 no.116).

**Supervision and reports.** Indiana adopted during 1907 an act calling for a rather comprehensive annual report by business corporations. It covers matters of corporate organization merely, not touching upon the financial condition beyond requiring a statement of authorized and outstanding capital stock. The statute contains a curious provision requiring all corporations to file within 30 days after the date of filing the annual report a copy of "any resolu-

tion at any time theretofore adopted by said corporation for increasing capital stock, for issuance of preferred stock, for reduction of capital stock, for redemption of preferred stock, for change of location, for extension of term of existence, for amendment of articles of incorporation or decree or resolution for change of name not already filed in the office of the Secretary of State, paying such officer . . . the same fee as is now required to be paid by private corporations for similar transactions." Such an act is rather a hardship upon existing corporations, requiring a thorough checking up of the corporate records and the possible payment of fees which were not required at the time when corporate action was taken effecting the changes now to be placed upon the records ('07 ch.58).

Delaware made certain changes in the details of corporate reports to secure more definite information as a basis for taxation ('06 ex. sess. ch.1).

Fraudulent statements of financial condition are one of the commonest forms of corporate misconduct. Most of the states are placing upon their statute books stringent laws with drastic penalties to check the abuse.

Connecticut passed such a law with the maximum penalty of 10 years imprisonment and \$10,000 fine or both ('07 ch.144). Idaho, Montana and Nevada adopted practically the same statute with the same penalty ('07 p.25, '07 ch.131, '07 ch.60). Iowa fixed the maximum penalty at one year in prison or at six months in prison and a fine of not over \$500 ('07 ch.72). South Dakota imposed a maximum jail penalty of two years or a fine of \$5000 or both ('07 ch.108).

A statute to compel corporations to submit their books to the Attorney General for examination upon demand was passed in Texas ('07 ch.21) upon the recommendation of the Governor.

Several other states passed acts making minor changes in the statutes to secure greater publicity in corporate affairs.

**Capital stock.** Iowa passed a most interesting statute ('07 ch.71) in an attempt to prevent stock watering. The act prohibits the issue of stock, except at par for cash, without the approval of the Executive Council of the state. Corporations proposing to issue stock for property must apply for permission. "Thereupon it shall be the duty of the Executive Council to make investigation, under such rules as it may prescribe, and to ascertain the real value of the property or other thing which the corporation is



to receive for the stock; and shall enter its finding, fixing the value at which the corporation may receive the same in payment for capital stock; and no corporation shall issue capital stock for the said property or thing in a greater amount than the value so fixed and determined by the Executive Council." Stock issued in violation of the statute is void and the corporation issuing it is liable to dissolution at suit of the Attorney General. The act is an extension of the principle of public regulation of the stock issues of public service companies to all corporations. If honestly and efficiently administered it should make the stock of Iowa companies very desirable from the standpoint of conservative investors.

Two states raised the maximum of possible capitalization, Missouri from \$10,000,000 to \$50,000,000 ('07 p.166), New Hampshire from \$1,000,000 to \$5,000,000 ('07 ch.129).

North Carolina adopted the principle of universal cumulative voting, giving the power to stockholders whether provision was made for it in the charter or not ('07 ch.457). Cumulative voting is a popular and fairly successful means of protecting minority stock interests.

**Foreign corporations.** The need for a federal statute regulating corporations engaged in interstate business is emphasized annually by the markedly hostile attitude of many of the state Legislatures to foreign corporations. Jealousy, timidity and narrow-mindedness are reflected in the statutes of several of the states in regulating the admission and business of such corporations. It is an attitude which has constantly been fought by the courts, which have almost uniformly held with the New York Court of Appeals that "foreign corporations carry no black flag" (*Demarest v. Flack*, 128 N. Y. 205). The statutes of 1907 and 1908 are no exception to the general rule. A favorite form of antiforeign corporation legislation, viz: the revocation of license in case the corporation carries litigation with citizens into the federal courts, was adopted in Alabama ('07 p.290, 374), in Arkansas ('07 no.313), in Indiana ('07 ch.176), in Louisiana ('07 no.10) and in Mississippi ('08 ch.122). The United States Circuit Court has since passed upon the validity of the Alabama statute and held it unconstitutional as applied to corporations already in the state at the time of its passage. The court in commenting upon the statute says "A statute which attempts to forfeit a man's property or business because he exercises a constitutional right in a lawful way in a resort to the courts of his country for justice transcends all the bounds of legis-



lative power and is a mere edict of despotism" (Western Union Telegraph Co. *v.* Julian, 169 Fed. Rep. 166 [1909]).

The right of a state to exclude foreign corporations absolutely or to admit them on such terms as it sees fit has long been recognized (Pembina Mining Co. *v.* Pennsylvania, 125 U. S. 181 [1887]; Prewitt *v.* Life Ins. Co. 202 U. S. 252). Some of the states have taken advantage of the power to require all foreign corporations desiring to do business therein to become "domesticated" by going through practically the same formalities which would be required in the formation of a domestic corporation. Arkansas adopted such a law ('07 no.185) but thought better of it during the same session, substituting an act admitting foreign corporations upon payment of the same preliminary fees as are required of domestic companies ('07 no.313).

Pennsylvania, which has always been conspicuous for its illiberal corporation laws, added corporations engaged in quarrying of cement rock or in the manufacture and sale of chemicals, food stuffs and eatables, cement and cement products, to the list of foreign corporations which may erect factories in the state ('07 no.204). Montana extended the right of eminent domain to foreign corporations ('07 ch.23).

**Combinations and monopolies.** The years 1907 and 1908 saw the usual crop of antimonopoly statutes. During 1907 two states appointed joint legislative committees to investigate various phases of the trust problem and to report suggested legislation. New Jersey's committee was charged with the examination of the alleged monopoly of the coal and ice business ('07 p.731). The Pennsylvania commission was appointed to investigate the increased price of food stuffs and the unlawful combinations responsible therefor ('07 p.804, 808).

The antitrust legislation was not as a whole of general interest nor particularly instructive in its nature.

## PROPERTY

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The observations made in previous annual reviews of property legislation apply to the output of the years 1907 and 1908: in a mass of detailed alterations and improvements, chiefly in the law of administration of decedents' estates, the only really noteworthy tendency that can be detected, is the adoption of provisions calculated to make lands more freely alienable, either by furnishing means for establishing and quieting titles, or by allowing sales of tied interests under orders of courts.

### **Security of titles and facility of transfers**

The *Torrens system* of land title registration has gained the adhesion of two new states, New York ('08 ch.444) and Washington ('07 ch.250), the legislation, as in all other American states that have such laws, being of the voluntary type, by which land may but need not be brought under the act. Oklahoma provides for the appointment of a legislative commission to report on the system ('08 p.788), and for the submission of a constitutional amendment sanctioning such legislation ('08 p.775).

The Illinois act underwent an important change ('07 p.208): the property upon the death of the registered owner, is no longer to pass to the personal representative, but is to descend to heirs or devisees, like unregistered lands, provision being made for the conclusive adjudication of the interests thus arising under will or intestacy. This amendment has not been submitted to the voters of Cook county, who adopted the original act, and the question will have to be determined whether an adoptive and local option statute can be amended without also submitting the amendment to the local popular vote.

**Alienation of settled property.** In 1873 the Court of Appeals of New York, in the case of *Brevoort v. Grace* (53 N. Y. 245) had held that the Legislature can not authorize the sale of the interests of living adult contingent remaindermen as a result of pro-

ceedings instituted by or on behalf of holders of other interests in the same property; not on the ground that the act failed to provide for notice to the contingent remaindermen — this the court declared to be irrelevant — but because the right of an adult may not be divested or transferred into another form without his consent, either for his own benefit or for the benefit of another party, such power residing in the Legislature only with reference to persons not *sui juris* or not *in esse*. While the decision was rendered upon a special statute affecting interests previously accrued, the reasoning was broad enough to cover prospective legislation of a general character. Presumably in consequence of this decision, the Real Property Law of New York, in authorizing the judicial sale of property held subject to trust limitations, where such sale should be for the best interest of the estate, provided that the conveyance should be valid and effectual against all minors, lunatics etc. and persons not in being interested in the trust or having estates in said property, and against all other persons so interested or having such estates who shall consent to such order, or who having been made parties to such proceeding as herein provided, *shall not appear therein and object to the granting of such order* (Real Property Law §85, 87). By act of April 30, 1907 (ch.242) this law is amended by striking out the last words italicized, so that the section ends: "or who have been made parties to such proceeding as herein provided." It remains to be seen whether the Court of Appeals will recede from its former view of the limits of legislative power, which appears to have been unduly narrow. Quite in accordance with this view, however, is a recent decision of the Supreme Court of Tennessee to the effect that an act ('07 ch.403, Apr.12) authorizing the sale of property upon the application and for the benefit of the life tenant is invalid as to the nonconsenting remainderman (McConnell v. Bell, 114 S. W. 203, 1908); Kentucky had held to the like effect in Gossom v. McFarran (79 Ky. 236).

Virginia, on the other hand, whose statute on the subject was slightly extended in 1908 ('08 ch.304), takes a liberal view of this class of legislation (Faulkner v. Davis, 18 Gratt. 651, Troth v. Robertson, 78 Va. 46, Carneal v. Lynch, 91 Va. 114).

Virginia also seems to be the first state to give express recognition to a form of limitation of increasing frequency and popularity, which can not easily be fitted into the common law system of estates: giving an estate with absolute power of disposition, but with a limi-



tation by way of remainder or executory interest of such portion thereof as shall not have been so disposed of ('08 ch.146).

Maryland ('08 ch.84 p.264) makes a wise provision in rendering rights of entry for breach of condition and possibilities of reverter devisable, and the testator first creating the condition by his will is also enabled to devise the right of entry thus created and which therefore might be held not to be owned by him as a distinct devisable right of entry. If the right of entry is only descendible, it is, under our statutory rules of descent, sure to be soon split up among so many parties, that united action for the enforcement of the condition may become difficult, if not impossible.

In Illinois, where some public attention was directed by the provisions of the will of Marshall Field to the undiminished power of accumulation of income existing in that state, a close copy of the English Thellusson act was enacted by the Legislature in 1907 ('07 p.1). A copy of the simple New York statute would have been preferable.

In Iowa, where the Supreme Court had recognized the continued force of the rule in Shelley's Case as a rule well calculated to promote the free circulation of property (127 Ia. 36), the Legislature promptly abrogated the rule ('07 ch.159).

Michigan ('07 no.122) follows New York and Wisconsin in relieving charitable uses from the statutory prohibition of perpetuities (*see* Review of Legislation 1905, p.7).

Michigan also settles a somewhat mooted question by providing that no rights against the public shall be acquired by the occupation or use, adverse or otherwise, of any highway or public ground ('07 no.46).

The **protection of purchasers** is the object of a number of statutes:

Colorado ('07 ch.244) provides that proceedings to set aside the probate of a will and to probate a subsequent will, and proceedings to prove a will, must be brought within three years after the first probate or after the settlement of an estate as intestate, in order to affect a purchaser for value in good faith and without notice, from the apparent devisee or heir, as the case may be. The great majority of the states lack provisions of this kind which are essential to eliminate a risk which otherwise disappears only with the running of the statute of limitations.

New Jersey ('07 ch.200) declares agreements for the sale or purchase of land, to be recorded in the future, to be void as against

subsequent judgment creditors of the vendor, or subsequent purchasers or mortgagees for value of such lands, unless action is brought on such agreement by the purchaser within three months after the date fixed for its consummation, or within three months from the date of the agreement, if no date is fixed for consummation. If an action brought is not diligently prosecuted within six months, an order may be applied for to declare the filing of the notice of the pendency of the action to be ineffectual.

Another method of protecting purchasers is the furnishing of facilities for establishing the true state of the title:

For this purpose Maine ('07 ch.62) creates a new proceeding whereby an owner who apprehends that an easement is claimed over his property is enabled to require the alleged claimant or claimants, known or unknown, to show cause why they should not bring an action to determine their rights, their claims to be barred unless established by such action.

Colorado ('07 ch.126) provides for the establishment of disputed corners and boundaries by the aid of commissioners selected for that purpose.

**Determination of heirship.** Of particular importance are the provisions allowing the conclusive determination of heirship in proceedings brought for that purpose. Statutes to this effect were enacted by Colorado ('07 ch.247, 249), Idaho ('07 p.333) and Texas ('07 ch.125).

**Absentees.** A number of states are added to the list of those which undertake to settle the estates of absentees.

The act of Indiana ('07 ch.31) providing for the probate of wills after five years' absence of the testator in parts unknown, is brief and vague; the probate "shall be subject to all the provisions of the law as now provided for the probate of a will upon the death of the testator, so far as the same may be applicable."

California ('07 ch.390) enacts a useful statute merely for the care of the property of an absentee (after 90 days), and for the support of his family out of it.

Virginia ('08 ch.294) and Vermont ('06 no.82) allow a final settlement, with provisions for refund in case the absentee should reappear, which seem to be required to satisfy the 14th amendment (198 U. S. 458).

### Wills and succession

Kansas ('07 ch.430) enacts, that in all actions to contest a will, if it shall appear that such will was written or prepared by the sole or principal beneficiary in such will who at the time of



writing and preparing the same, was the confidential agent or legal adviser of the testator, or who occupied at the time any other position of confidence or trust to such testator, such will shall not be held to be valid unless it shall be affirmatively shown that the testator had read or knew the contents of such will, and had independent advice with reference thereto. At common law, it seems, either one of the two requirements may rebut the presumption of undue influence.

In the matter of **descent and distribution** the tendency to favor the surviving husband or wife continues to be noticeable. Thus New Jersey ('08 ch.316) changes the former law, copied from the English statute of distributions, by giving the widow the whole instead of the half of the personal estate if there are no children; Idaho likewise gives the surviving spouse all, if brothers or sisters of the deceased are otherwise the nearest of kin ('07 p.338). California ('07 ch.297) after several fluctuations, reverts to the rule which allows grandchildren as well as children of deceased brothers or sisters to take by representation.

Nebraska ('07 ch.49) in giving the surviving spouse one third, if all the children are his or hers, and one fourth only, if some of the children of the deceased are of another marriage, introduces a distinction which seems novel in American law. By the same act, Nebraska substitutes absolute estates for the life estates of dower and curtesy.

Indiana ('07 ch.95) and Kansas ('07 ch.193) debar the person who has unlawfully caused the death of the deceased, from all share in his estate. The Supreme Court of Kansas had refused to read the same result by judicial legislation (72 Kans. 533).

### Aliens

Minnesota ('07 ch.439) and Oklahoma ('08 ch.49 art.1) have provisions on this subject. In Minnesota aliens, who are within the legal disability, and who have in the past acquired land, are required to dispose of it within 10 years after the approval of the act.

Oklahoma exempts present holders as long as they hold (i. e. presumably not their heirs or devisees), and requires alien non-residents taking by descent, devise or purchase under legal process for the protection of their liens to dispose of the land within five years from the time of acquisition, or from the time that residence ceases.



### Intangible property

Illinois ('07 p.266) now likewise affords protection to unpublished dramatic compositions and operas. It is to be noted in this connection that the Supreme Court of Illinois decided recently that the production of a play does not constitute publication (*Frohman v. Ferris*, 87 N. E. 327).

### Eminent domain

Several states extend the purposes for which property may be condemned, so Oklahoma ('08 ch.20 art.1), Colorado ('07 ch.125, 175) and California ('07 ch.399). It must be doubted whether all these purposes, e. g. for cemeteries, without further qualification, are constitutional.

Indiana ('07 ch.140) by an emergency act permits the Governor to institute proceedings for condemnation, when property is needed for public buildings and authorizes him to direct the auditor to pay compensation out of any funds available. Upon the face of the act, this seems an unusual delegation of power.

Arizona ('07 ch.91) puts the costs of the proceedings upon the owner who has refused a tender of an amount equal to the sum awarded to him.

California ('07 ch.271) authorizes the condemnation of lands belonging to the United States or held in trust by the United States, making exception for lands held for government uses. The statute is probably unique; but if property is given to the United States by a private individual, as a tract of redwood forest was recently donated, it is difficult to see upon what theory such land can be withdrawn from the state's power of eminent domain. On the other hand, it is not easy to see how proceedings can be validly carried on in a state court against the United States without its voluntary consent and submission.

NOTE. The following note on an insolvency statute of Rhode Island ('08 ch. 1577) is furnished by Frank William Henicksman esq. of the Chicago Bar.

### RHODE ISLAND INSOLVENCY LAW, PASSED MAY 26, 1908, CHAPTER 1577.

This law applies to natural and artificial persons, inhabitants of the state, whether the proceedings are voluntary or involuntary. It is broader in this respect than the national law of 1898, as it makes it possible for corporations to apply for voluntary proceedings, which is impossible under the national law. It also provides that involuntary proceedings may be instituted against any person owing \$300, not even excepting corporations of

any kind, farmers or wage-earners, as does the national act. Voluntary petitions may be filed only by persons indebted to the extent of \$300, or over, who are insolvent. In this respect the national act is more liberal, as it allows voluntary proceedings by any natural person, though he be solvent, who owes debts, regardless of the amount.

The act is extreme in that it provides that a great number of rather insignificant acts shall be deemed acts of insolvency. In this regard it seems to follow more closely the national bankruptcy law of 1867 than that of 1898. It was in this feature that the law of 1867 was a failure, and the attempt of Congress to remedy this resulted in making but few acts of the debtor acts of bankruptcy, consisting of well defined and rather grievous wrongs to creditors. Thus, section 16 of the Rhode Island statute provides that if a debtor is insolvent and suffers a judgment to be entered against him in that state or elsewhere, he has committed an act of insolvency; further, if a debtor—apparently one who is solvent—has within four months next prior to the filing of the petition against him obtained credit by knowingly in writing making a false statement or representation concerning his financial condition, property or ability to pay, he has committed an act of insolvency. It is difficult to understand why any person except the one injured should be allowed to complain of such an act if injury results. The most extreme and least justifiable provision is that of a solvent debtor's failure to make payment of any of his commercial paper for a period of 30 days after its maturity. A very similar provision was contained in the law of 1867 and was perhaps one of its most potent factors in causing its disfavor and repeal.

The objection to these lax and easily violated provisions is that in times of commercial stringency creditors have too wide a range of acts upon which to base proceedings against an honest solvent debtor, and one who, if left alone, would perhaps succeed in the end and be an advantage to the commercial community.

The greater portion of the remaining acts of insolvency provided for are similar to those contained in the national act. Making a fraudulent conveyance, an assignment for the benefit of creditors, a conveyance voluntarily with intent to prefer, or suffering an attachment or levy on his property to remain for a certain period with intent to prefer, are in substance contained in the national act. And these acts constitute substantially all the acts contained in the national law. Besides these the Rhode Island law contains those above enumerated and others, too many, it would seem, to insure entire success to the law.

On the whole the law is of a more modern type than that found on the statute books of many states. It is in reality as complete in its modern features as the national act itself. In fact, it seems to surpass it in that regard. It provides for voluntary proceedings on behalf of corporations, which seems sensible, as the distinction in the national act between natural and artificial persons seems unjustifiable.

It also provides that the giving of a preference shall constitute an act of bankruptcy, and, what is more, it clearly defines other acts which theoretically may be deemed to be preferences but which have not been recognized as such under the national law. Thus, if a debtor, while insolvent,

suffers any of his property to be taken or levied upon by process of law, or otherwise, or, while insolvent, permits the creation of any lien upon his property, he has committed an act of insolvency. Such acts are in theory, if not in fact and by definition, preferences, and ought to be dealt with as preferences. The Rhode Island law treats them as such for the purpose of committing acts of insolvency, and, furthermore, it seems to deal with liens and levies procured while the debtor is insolvent (although the paragraph in the act is somewhat obscure) in much the same manner as does the national law by providing for their dissolution, so that all the creditors get the property covered by such legal liens.

One of the leading characteristics of a modern bankruptcy law is the portion providing for a discharge which this law contains. With the voluntary insolvency extending to all persons and the preference and discharge elements included in the act, it must be recognized as one of modern features, and although having but a narrow scope as long as the national law remains in force, it will, when that law is repealed, become entirely effective and be a credit to the community governed by it.



## CONTRACTS AND OBLIGATIONS

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State legislation relating to contracts falls within two very marked fields. The first of these includes various attempts to modify or improve the common law. During 1907 and 1908 the most noteworthy enactments within this field were the adoption of the uniform Negotiable Instruments Law in five states and the uniform Sales Law in six states. The other comprises efforts to restrict or prohibit forms of business activity heretofore legal, or to impose additional penalties upon the breach of contractual obligations. Under this head the two years have been chiefly noteworthy in the increased restrictions which are thrown around the sale of stocks of merchandise in bulk, the continued regulation of the doing of business under assumed names, the endeavor to prevent the abuse of commissions, and an extension of the laws relating to usury. That the second of these classes is considerably larger than the first is merely illustrative of a modern legislative tendency which makes itself felt in every line of legislative activity. As long as the abandonment of the doctrine of *laissez faire* continues we may expect frequent additions to restrictive legislation. On the whole the legislation which we are considering is rather greater than usual.

**Commissions.** The effort to prevent the influencing of employees by giving commissions has been continued in several states. Nebraska ('07 ch.171) and New Jersey ('08 ch.284) follow the form of previous laws in other jurisdictions in making criminal the giving to agents, employees or servants of any gift without the knowledge and consent of the principal or employer, with intent to influence the action in regard to the principal's or employer's business. Iowa ('07 ch.183) also enacted a very similar law. Montana ('07 ch.52) punishes superintendents or foremen who receive any consideration for the employment of any person. Indiana ('07 ch.120) has an act directed at any agent or employee

of any common carrier who solicits, accepts or receives from any one any money or thing of value for which such agent or employee performs any act for or on behalf of such carrier. It also punishes the briber as well as the employee. This last law, if enforced, would entirely do away with the practice of tipping porters or waiters on dining cars, and if found successful might very well be extended to hotels.

The practical working of these laws relating to the giving or acceptance of fees, commissions or tips is something upon which we have at present no data. They cover subjects which are undoubtedly very difficult to reach by criminal prosecutions and it may be that they will only add to the already rather long list of acts which while well meant fail to accomplish any real results.

**Breach of contracts.** An illustration of a modern tendency to punish by the criminal law that which was formerly left to a civil action for damages for breach of contract or for tort appears in an act of Arkansas ('07 no.271). This subjects to fine or imprisonment any person who has received advances upon a contract and thereafter refuses to perform it or to refund the advances received. A law of Tennessee ('07 ch.154) reenacts the principle of the common law that one who induces the breach of a contract is guilty of a tort and in addition provides for the recovery of treble damages for such action.

**Uniform sales laws.** The Commissioners of Uniform State Laws recommended in 1906 the adoption of an act to make uniform the law relating to the sale of goods. This act was prepared by Prof. Samuel Williston, under the supervision of the committee on commercial law of the commissioners. During the two years following this recommendation this uniform law was adopted in Arizona ('07 ch.99), Connecticut ('07 ch.212), New Jersey ('07 ch.132), Massachusetts ('08 ch.237), Ohio ('08 p.413) and Rhode Island ('03 ch.1548). In all of these states it was enacted in substantially the form recommended by the commissioners. The only change worthy of mention is in section 4 of the act relating to the statute of frauds. In the draft proposed by the commissioners the limit above which the contract must be in writing or partly performed was fixed at \$500. This amount is in a large number of the states \$50, which is a translation of the amount fixed in the original English act at 10 pounds. Undoubtedly \$500 much more nearly represents the actual value of the original English limit than



does \$50. In the Connecticut act this limit is fixed at \$100 and in the Ohio act at \$2500.

**Sales in bulk.** The tendency noted in previous Reviews to regulate sales of merchandise in bulk has continued unabated. During the past two years there have been nine new enactments upon this subject; two states have amended these laws, in one state such an act has been declared unconstitutional, and in two other states where the attempts to regulate this matter had been previously set aside by the courts they have been reenacted with the probable intention of obviating if possible the constitutional objections.

The Supreme Court of Illinois rendered the decision declaring such a law unconstitutional (*Charles J. Off & Co. v. Moorehead*, 85 N. E. 264). The act in question required an inventory and notice thereof to creditors within five days before each sale and a failure to comply made the transaction presumptively fraudulent as against the creditors. The court considers that a law which applies only to stocks of merchandise is class legislation. It states that there is "no reason pointed out and none suggests itself to us why sales of stocks of merchandise should be placed under the protection of a special statute imposing onerous restrictions and conditions upon both seller and buyer from which persons dealing in the other classes of property are exempt." The decision is thus based upon the classification rather than upon the unreasonableness of the conditions under which the sale might be made. The divergence of opinion in other states upon substantially similar legislation is referred to, the opinion citing five jurisdictions where such laws have been sustained and four where they have been declared unconstitutional and preferring the minority view.

The Supreme Court of the United States has recently held that the Connecticut law on this subject which had previously been sustained by the Supreme Court of that state is not repugnant to the 14th amendment of the Federal Constitution (*Lemieux v. Young*, 211 U. S. 489). This law did not require an inventory and only provided for the filing of notice, but the reasoning of the decision of the Supreme Court of the United States is opposed to that of the Supreme Court of Illinois.

Governor Comer of Alabama recommended the enactment of a law "looking to the prevention of dishonest transactions by disposing of entire stocks of goods over night when evidently done



to avoid the payment of equitable and just claims," but the Legislature did not follow his recommendation.

The new laws of this kind are found in Florida ('07 no.84), Montana ('07 ch.145), Nebraska ('07 ch.62), Nevada ('07 ch.102), New Jersey ('07 ch.237), North Carolina ('07 ch.623), North Dakota ('07 ch.221), Vermont ('06 no.140) and Mississippi ('08 ch.100). They all apply to sales of goods in bulk or otherwise than in the usual course of business. Four of them, Nebraska, North Dakota, Vermont and Mississippi, require the making of an inventory. This provision is the one which has been most severely criticized by the courts which have declared such laws unconstitutional and is undoubtedly their most drastic feature. In all of them but Montana the purchaser is required to give notice to all the creditors of the seller. In the case of the four states where the inventory is required it must be substantially included in the notice. In Montana and Nevada the purchaser is required to apply the purchase money or such portion of it as is necessary to the payment of the claim of the creditors. Compliance with such a provision would undoubtedly be very difficult as no exception is made for disputed claims. In Nebraska the requirements of the law may be waived by all the creditors, while in Nevada such waiver may be had by a majority in number and amount. In Montana, Nebraska, Nevada, New Jersey and Vermont the sale is void if the law is not followed. It is of course probable that in such cases this would be construed to mean voidable at the suit of a creditor. In Florida, North Carolina, North Dakota and Mississippi failure to comply with the law merely creates a presumption of fraud. Judicial sales are expressly excluded in Nebraska, New Jersey, North Carolina and Vermont.

Maryland ('08 ch.704 p.243) and Oklahoma ('08 ch.56 art.1) amended their previous laws upon the subject. By the amendment to the Maryland law the notice to creditors is to be given by the vendee instead of the vendor. The law also makes the sale presumptively fraudulent if the law is not complied with, thus restoring the situation which existed prior to 1906.

In Oklahoma the law has been largely rewritten, requiring a notice to creditors, making the sale void if the act is not complied with, and excepting judicial sales.

Ohio ('08 p.241) and New York ('07 ch.722) where laws regulating such sales have been declared unconstitutional, have re-enacted them with amendments which may possibly save them if

the question of their constitutionality is again raised. In Ohio the new law differs radically from the one held void. No inventory is required, notice need not be given to creditors but must be recorded in the office of the county recorder, failure to comply with the law makes the sale only presumptively fraudulent, and judicial sales are excepted. The new law thus removes many of the onerous burdens which were referred to in the decision under the old law (*Miller v. Crawford*, 70 Ohio St. 207, 71 N. E. 631). This decision, however, like the one just noted in Illinois, regards such laws as class legislation and the new act would be to a considerable extent open to this objection. In New York the new law dispenses with the inventory and makes the sale only presumptively fraudulent. Considerable emphasis was laid upon these features of the old act in the decision declaring it unconstitutional (*Wright v. Hart*, 182 N. Y. 330, 75 N. E. 404). As that decision was rendered by a bare majority of the court and as Justice Haight in his concurring opinion laid considerable stress upon the inventory it is entirely possible that the new law will be sustained. The law is of course still open to the possible objection that it is class legislation.

**Business names.** Massachusetts ('07 ch.539), Michigan ('07 no.101), Montana ('07 ch.150), Nevada ('07 ch.197) and Washington ('07 ch.145) have enacted laws prohibiting the doing of business under an assumed name without the filing of a certificate showing the true names of the persons engaged in the business. This certificate is to be filed with the city or town clerk in Massachusetts and with the county clerk in the other states. In Massachusetts and Nevada partnerships that contain the true surname of any partner are not included, while the Washington act requires that the partnership contain the true name or names of all the parties conducting the business or having an interest therein. The Montana law is an extension of a former law which applied to partnerships transacting business under fictitious names or without disclosing the names of all the partners. Violation of the Massachusetts act is punishable by fine and of the Michigan and Nevada laws by fine or imprisonment. In Montana one failing to comply with the law can not maintain an action, and in addition to this penalty in Washington violation is *prima facie* evidence of fraud in obtaining credit.

**Agency.** A New York law ('01 ch.128) made it a misdemeanor for any person in a city of the first or second class to offer for sale any real estate without the written authority of the



owner or his agent. This act has been declared unconstitutional by the Court of Appeals of New York (*Frank L. Fisher Company v. Woods*, 79 N. E. 836). The court in an opinion by Justice Haight holds that it is an arbitrary interference with the liberty and property rights of individuals. Under it a person acting gratuitously in carrying an offer of sale of real estate to a third party would become a criminal if the authority was not put in writing. It is not a statute of frauds for which recovery could not be had unless the contract is in writing but punishes as a crime that which may be a perfectly legitimate and proper transaction.

**Usury.** The restriction of interest upon loans is a matter which is constantly engaging the attention of our Legislatures. Probably in no respect is there so great a divergence of state statutes as upon this subject. In some jurisdictions no restriction is made upon interest. In others a constant effort is being made to restrict it to a comparatively low rate and to prevent evasion of the law. In his message for 1907 Governor Cutler of Utah recommended that the charging of a higher rate than the legal rate of interest in that state (8%) be prohibited. Governor Elrod of South Dakota favored a reduction from the present maximum rate of 12%. Governor Cutler's recommendation was partially met by an act of Utah ('07 ch.46) establishing 12% as a maximum rate upon loans, except those of \$100 or less, where \$1 for the first month may be had as interest with 12% thereafter. Notes taken at a higher rate are void. Connecticut ('07 ch.238) fixes 15% as the maximum rate. The law, however, does not apply to banks, trust companies, pawnbrokers, or bona fide mortgages of real or personal property, so the scope of its operation is very greatly limited. North Carolina ('07 ch.110) prohibits a greater interest than 6% upon loans secured by household furniture. In Pennsylvania ('07 no.5) a previous law ('03 ch.19) which allowed any rate of interest on amounts not less than \$500, secured upon warehouse receipts, bills of lading, certificates of stock or negotiable instruments is repealed. Georgia ('08 p.83) prohibits loans at a rate greater than 5% per month which amount must include commissions and fees but allows pawnbrokers to charge in addition 25 cents at the time the property is left with them. Massachusetts ('08 ch.605) provides for the licensing of persons making loans of \$200 or less with a rate of interest greater than 12% and for which no security is taken.



**Negotiable instruments.** During 1907 the Uniform Negotiable Instruments Law was adopted in Alabama ('07 p.660), Illinois ('07 p.403), Nevada ('07 ch.62), New Mexico ('07 ch.83) and West Virginia ('07 ch.81), but in 1908 it was not extended. It has now been enacted in 37 states and territories,<sup>1</sup> and the District of Columbia, so that there are very few of the more important commercial states not governed by its provisions.

Illinois was the only state in which the law was not adopted in substantially the form recommended by the Commissioners on Uniform State Laws. In that state, however, very considerable amendments were made to the draft as proposed by the commissioners. To a certain extent these changes were due to local conditions but a number of them seem to have originated in the controversy started by James B. Ames, dean of the Harvard Law School. The law was recommended by the commissioners in 1896. At their meeting in 1900 Dean Ames, recognized as an authority upon this subject by virtue of his experience as a teacher in the Harvard Law School, brought to the attention of the commissioners a number of criticisms which he had made to the law. It appears that he had not seen the preliminary draft of the law and had had no opportunity to present his suggestions before it had been recommended by the commissioners. These suggested amendments were rejected by the commissioners present at the 1900 meeting. In December of that year Dean Ames published his criticism in the *Harvard Law Review* making a somewhat severe attack upon the law as it had then been passed in a number of states, and expressing as his opinion that the further adoption of the law in its present form would be a misfortune. Judge Lyman D. Brewster who was at that time president of the National Conference of Commissioners on Uniform Legislation replied to these criticisms and the controversy was continued on both sides by these gentlemen. It was taken up by other writers, the most noteworthy contribution being an article entitled "A Review of the Ames-Brewster Controversy," by Charles L. McKeehan, lecturer

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<sup>1</sup> Alabama, Arizona, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

on bills and notes in the University of Pennsylvania Law School.<sup>1</sup> The merits of the controversy can not be definitely settled at the present time, but it may be noted that Dean Ames stands virtually alone upon a number of his criticisms, and that while a considerable basis exists for the remainder he was hardly warranted in his conclusion that it was wiser to have no code at all than to adopt the Negotiable Instruments Law as it now stands.

The enactment of the law in Illinois followed a long period of agitation. It had passed the Senate in 1899, 1901 and 1903, in each case failing to pass the House. In 1905 it was considered inadvisable to present the bill for consideration. In 1907 it was again introduced. Before its passage Judge Julian W. Mack published in the *Illinois Law Review* (April 1907) an article advocating its adoption with a large number of amendments. Some of these changes were suggested by Dean Ames but a number were first brought forward by Judge Mack. In all something over 40 amendments were favored by him nearly all of which were incorporated in the Illinois law. Of the changes proposed by Dean Ames some 16 were made by the Illinois Legislature.<sup>2</sup> Of the amendments recommended by Judge Mack three failed of adoption,<sup>3</sup> and 12 changes which were advocated by Dean Ames were not concurred in by Judge Mack and were not adopted.<sup>4</sup>

A great many of the changes in the Illinois act are merely verbal and have little effect upon uniformity. A number of them, however, are of considerable importance. The law is restricted to instruments payable in money. Instruments payable in goods have always been negotiable in Illinois but are governed by different laws from instruments payable in money. This situation has been continued by the amendment to the law. Instruments payable to the estate of a deceased person are to be deemed payable to the order of the administrator or executor of the estate. The discrepancy between sections 9 and 40 relating to blank indorsements as making an instrument payable to bearer has been cleared up by making section 40 apply to instruments originally payable to

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<sup>1</sup>The articles by Ames, Brewster and McKeehan have been collected and published in the "Negotiable Instruments Law" by John D. Brennan, Cambridge, 1908.

<sup>2</sup>Amendments to sections 9-5, 23, 29, 37, 37-2, 40, 49, 64, 66, 70, 119, 120, 124, 137, 186.

<sup>3</sup>Sections 20, 65-3, 65-4.

<sup>4</sup>Sections 3-2, 9-3, 20, 22, 36-2, 36-3, 54, 65, 68, 70, 120-3, 137, 175.



bearer. Section 23 relating to forgeries has been amended by striking out the restriction to instruments made without the authority "of the person whose signature it purports to be." The provision making a person secondarily liable upon instruments discharged by the discharge of a prior party has been eliminated. The section on negotiability has been amended so that power to confess judgment before maturity does not affect negotiability. The definition of accommodation party has been changed by striking out the words "without receiving value therefor." An indorsement to a person in trust is specifically stated to give the indorsee the right to bring any action against the indorser or any prior party that a special indorsee would be entitled to bring. The right to compel an indorsement has been restricted to cases where it was omitted by accident or mistake. The original law made joint payees or joint indorsees jointly and severally liable. Dean Ames advocated striking out this provision but the Illinois law changes it so that all parties jointly liable on an instrument are deemed to be jointly and severally liable. The discussion as to what was meant by subsection 4 of section 119 of the original law providing that negotiable instruments may be discharged by any act which will discharge a simple contract for the payment of money has been avoided in Illinois by striking out this provision. The release of persons secondarily liable on an instrument by the release of a principal debtor or by the extension of time of payment has been changed by excepting accommodation parties. Notice of dishonor in case of checks is required. The provision of the original law making a refusal to return a bill an acceptance has been eliminated. The section on warranties has been changed by excepting accommodation parties. The section avoiding an instrument because of alteration has been restricted to alterations by the holder.

While the changes made in Illinois are not great when the act is taken as a whole they constitute a serious departure from the principle of uniform laws. It is too much to expect that any act will be drafted which is not subject to criticism. If different states begin to amend a great deal of confusion is certain to result. Changes which do not seem great in one state will if other changes are made in other states entirely avoid the work on behalf of uniformity. It is on this account rather than because of the merits or demerits of the Illinois amendments that they are open to criticism.





*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 392a

PUBLIC UTILITIES

ROBERT H. WHITTEN PH.D., LIBRARIAN NEW YORK STATE PUBLIC  
SERVICE COMMISSION, FIRST DISTRICT

**Commissions and general regulation.** *New York.* The Public Service Commissions Law ('07 ch.429) creates two Public Service Commissions and divides the state into two administrative districts. The commission for the first district exercises jurisdiction in the four counties constituting the city of New York. The commission for the second district, with offices at Albany, exercises jurisdiction over the rest of the state. The existing State Railroad Commission, State Gas and Electricity Commission, State Inspector of Gas Meters and New York City Rapid Transit Commission were abolished. The commissions are given broad powers of investigation and regulation over gas, electric, street railway and railroad corporations. The intent of the law seems to be that the commissions shall have power necessary to require safe and adequate service at just rates of charge. The commissions are authorized to establish a uniform system of accounts, to require reports of accidents and to investigate the same, and to supervise all new issues of stock and bonds.

*Wisconsin.* The Wisconsin Public Utilities Law ('07 ch.499) places under the jurisdiction of the State Railroad Commission telephone, water, heat, light and power companies and subjects them to control similar in many respects to that exercised by the commission over railroads and street railways under the Railroad Commission Law. The Railroad Commission Law was passed in 1905 and was amended in 1907 so as to include street and interurban railroads. Under the Public Utilities Law the commission is granted full power to determine reasonable rates and service and in addition is authorized: To make a valuation of the property of each public utility; to provide uniform systems of accounting; to audit company accounts; to fix rates of depreciation; to fix standards of measurement, quality and other conditions pertaining to the supply of the product or service rendered by any utility; to

keep itself informed concerning new constructions, extensions and additions to the property of public utility companies.

*Connecticut.* In accordance with a resolution passed by the Connecticut Assembly of 1907 a commission was created to consider the laws in relation to public service corporations and to report to the Legislature of 1909. This committee reported in favor of the creation of a permanent Public Utilities Commission with the following powers and duties:

- 1 To grant franchises to public service corporations.
- 2 To supervise the condemnation of land and construction of fixtures by these corporations in so far as the same affects the public safety or interest.
- 3 To supervise the capitalization of these corporations.
- 4 To ascertain the facts relating to the financial condition of these corporations, the physical condition of their plants and equipments, and the causes of accidents resulting from their operation.
- 5 To supervise their operation in so far as the same substantially affects the public safety.
- 6 To fix the rates chargeable when existing rates are unreasonable.

A Connecticut act ('07 ch.225) provides that on petition of the authorities of any city, town or borough the State Railroad Commissioners may make such order as they deem reasonable and equitable in relation to the facilities afforded by the street railway company. Another act ('07 ch.124) provides that no part of a railroad that has been electrified shall be open for public use until a certificate signed by the State Railroad Commissioners has been secured stating that the road "is in a suitable and safe condition."

*Missouri.* A Missouri act ('07 ex. sess. p.119) empowers cities to pass ordinances fixing the rates of charge for public utilities. The act provides that "such rates must be reasonable and shall not be changed oftener than once every two years." Provision is made for appeal to the Circuit Court to determine the reasonableness of any such rate. The act also provides that any city may establish a commission to investigate the question of rates of charge and to report its findings and recommendations to the city council. Under this provision public utility commissions have been established by city ordinance in St Louis, St Joseph and Kansas City.

*Texas.* A Texas act ('07 ch.117) authorizes the city council of all cities and towns of over 1000 population to regulate by ordinance



the rates of charge of all water, gas, light and sewer companies and also to prescribe rules and regulations under which these services shall be furnished. It is provided, however, that a rate of charge may not be prescribed which will yield less than 10% net "on the actual cost of the physical properties, equipments and betterments." The companies are required to file an annual report with the mayor.

*District of Columbia.* By an act of Congress of May 23, 1908, certain duties were imposed upon the Interstate Commerce Commission in relation to the service rendered by the street railroads within the District of Columbia. The act requires every company to supply safe and adequate service and empowers the Interstate Commerce Commission to enforce this provision and to adopt all needful rules and regulations reasonable and proper for this purpose: Under the above act the Interstate Commerce Commission created a District Electric Railway Commission consisting of three residents of the district. This district commission acts merely in an advisory capacity and is without direct power except in so far as it has authority to hold hearings and gather facts necessary to enable it to make recommendations to the Interstate Commerce Commission. On the recommendation of the district commission, the Interstate Commerce Commission adopted July 7, 1908, and has amended and supplemented from time to time a code of "Regulations for the operation and equipment of street railway cars in the District of Columbia."

**Rates.** Both the Railroad ('05 ch.362) and Public Utilities Law ('07 ch.499) of Wisconsin and the Public Service Commissions Law ('07 ch.429) of New York give the commissions power to regulate rates. The Wisconsin laws are broader in scope as they include telegraph, telephone and water companies.

The Wisconsin Public Utilities Law requires telephone, heat, light, water and power companies to file schedules of rates, but such rates may "not exceed the rates, tolls and charges in force April 1, 1907." These rates are to be the legal maximum rates and can not be increased except with the approval of the Railroad Commission.

A Pennsylvania act ('07 no.305) makes 5 cents the maximum fare "for a continuous ride in one car" within the corporate limits of any city of the second class and upon the lines of any one railway company.

The New York law of 1905 (ch.737), creating a State Commission of Gas and Electricity, authorized the commission to fix maximum rates of charge. The law provided that the rate so fixed should be the maximum rate charged by the company for a term of three years and thereafter until, on complaint of the municipal authorities or of consumers, the Commission should again fix the rate. In *Village of Saratoga Springs v. Saratoga Gas, Electric Light and Power Company* (83 N. E. 693), decided February 18, 1908, the New York Court of Appeals held this provision of the law to be unconstitutional, in that no provision was made by which the company could obtain a modification of the order after the expiration of the three year period even though the conditions had so changed in the meantime that the rates fixed were confiscatory and unreasonable.

*60 cent gas in Indianapolis.* The Citizens Gas Company of Indianapolis holds a franchise granted in 1905, providing for the sale of gas at 60 cents per thousand cubic feet. The company began to distribute gas under this franchise in December 1909. The company plans that it can sell at this low rate by producing gas as a by-product in the manufacture of coke. According to the company's estimates it will sell coke daily to a value greater than its daily sales of gas. The new company will have the competition of an existing company, the Indianapolis Gas Light and Coke Company. In 1907 the Indiana Legislature ('07 ch.103) passed an act to require this company if it should continue the sale of gas after the expiration of its contract with the city in 1909 to sell such gas at 60 cents per thousand. Just prior to the time when this provision was to go into effect the Gas Light and Coke Company sought to secure an injunction against its enforcement but was unsuccessful.

**Uniform accounts.** The Wisconsin Public Utilities Law ('07 ch.499) authorizes the Railroad Commission to prescribe a uniform system of accounts for telephone, heat, light, water and power companies. An amendment to the Railroad Law in 1907 (ch.582) extends its provisions to street and interurban railway companies and the Railroad Law already provided for a uniform system of accounts. The Wisconsin Public Utilities Law provides also that the Railroad Commission shall determine "what are the proper and adequate rates of depreciation of the several classes of property of each public utility." The law further provides that "every public utility shall carry a



proper and adequate depreciation account whenever the commission after investigation shall determine that such depreciation account can be reasonably required." The law also provides for the actual audit of all accounts by the commission. This provision is as follows: "The commission shall provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commission."

The New York Public Service Commissions Law ('07 ch.429) authorizes the commissions to prescribe uniform systems of accounts for gas, electrical and street railway corporations but contains no express provision for the audit of company accounts or for the determination of depreciation rates.

**Franchises.** A Massachusetts act ('08 ch.617) relates to franchises for the distribution and sale of electricity for power purposes only, in a city or town in which another company maintains wires for the general distribution and sale of electricity. In granting the franchise the city authorities may impose such "terms, limitations and restrictions as the public interest may in their judgment require." An appeal may be taken to the Board of Gas and Electric Light Commissioners, which board may affirm, amend or add to the terms and conditions prescribed by the local authorities. This definite recognition of the authority of cities and towns to impose terms and conditions in granting locations is something of an innovation in Massachusetts franchise procedure. The general franchise provisions in relation to gas, electric and street railway services do not apparently contemplate the inclusion of terms and conditions in the permit granted for the use of the streets.

A Maine act ('07 ch.132) provides that if a street railway company is unable to secure a franchise from a city or town it may appeal to the State Railroad Commission and the commission may grant a franchise. This is an amendment of a former law which provided for an appeal from the local authorities to the Supreme Judicial Court.

**Indeterminate franchise.** By legislation of 1907 Wisconsin adopted the indeterminate franchise. The Public Utilities Law ('07 ch.499) contains the following:

Every license, permit or franchise hereafter granted to any public utility shall have the effect of an indeterminate permit subject to the provisions of this act, and subject to the provision that the municipality in which the major part of its property is situate may pur-



chase the property of such public utility actually used and useful for the convenience of the public at any time as provided herein, paying therefor just compensation to be determined by the commission and according to the terms and conditions fixed by said commission.

The Public Utilities Law applies to telephone, heat, light, water and power companies. Another act of the same year ('07 ch.578) applies the indeterminate principle to street railway franchises. This latter act permits any street railway company operating under a term franchise to receive an indeterminate franchise at any time prior to the expiration of its term franchise upon filing a surrender of such franchise. In the Public Utilities Law, however, it was provided that the surrender of the term franchise must be filed prior to July 1, 1908, and this time was extended in 1909 (ch.180) to January 1, 1911. The State Railroad Commission in its report for 1908 recommends that utilities operating under fixed term franchises should have an opportunity to surrender the same at any time in the future, as is now the law under the indeterminate franchise act applicable to street railways. In Massachusetts, the home of the indeterminate franchise, street railway franchises are in terms revocable at the pleasure of the municipal authorities, subject to an appeal to the State Railroad Commission. There is no provision for municipal purchase in case of revocation. In the District of Columbia and Porto Rico all franchises are granted with the reserved right to amend or repeal at any time. The Chicago street railway settlement franchises of 1907 are limited to 20 years but give both to the city and to a company licensed by the city the right to purchase at any time. They also regulate the important matter of future extensions, a question apparently not touched upon in the Wisconsin laws in relation to street railways, though included in the Public Utilities Law relating to telephone, heat, light, water and power companies.

**Competition.** Both the Public Utilities Law of Wisconsin ('07 ch.499) and the Public Service Commissions Law of New York ('07 ch.429) provide that no franchise shall be exercised until a state commission has declared after a public hearing that such exercise is required by public convenience and necessity. The commission therefore has the power to determine to what extent new companies shall be allowed to compete

with existing companies. The Wisconsin law also applies the same rule to the construction of a municipal plant in any municipality where there exists a similar plant operating under an indeterminate franchise.

A Massachusetts act ('08 ch.529) prohibits an electric light company from purchasing the property of or consolidating with a gas company and prohibits a gas company from purchasing the property of or consolidating with an electric light company. An exception is, however, made in case of a gas company that has been authorized to engage in the electric lighting business.

A Pennsylvania act ('07 no.281) makes it unlawful for a railroad corporation "to acquire, purchase or guarantee the stock, bonds or other securities of, or lease or purchase the works or franchises of, or in any way control any street passenger railway corporation owning or having under its control a parallel or competing line with said railroad."

**Extensions.** Under the Wisconsin Public Utilities Law ('07 ch.499) any municipality has the right to require of any telephone, water, light, heat or power company "such extensions to its physical plant within said municipality as shall be reasonable and necessary in the interest of the public," subject to an appeal to the State Railroad Commission. The power to compel extensions is a most important one and almost indispensable if the public utility is to be treated as a monopoly and franchises for competing plants refused.

**Joint use of tracks.** A Texas act ('07 ch.15) conferring the power of eminent domain on interurban electric railway companies permits any such company to condemn an easement over the tracks of another street railway company for the purpose of securing an entrance into a city or town upon a route approved by the city authorities. In such proceedings the court or the jury trying the case "shall define and fix the terms and conditions upon which such easement or right of way shall be used." The interurban company may not, however, without the consent of the company over whose tracks the easement is condemned receive any freight or passengers for points between the termini of the tracks so condemned.

An Iowa act ('07 ch.104) authorizes interurban railroads to use the tracks, terminal facilities and power of city street railway companies on payment of compensation. The interurban company may not, however, use such tracks or facilities for local business. If an agreement as to compensation is not reached the amount of the



compensation and conditions of use shall be determined by the State Board of Railroad Commissioners, on petition of either party. Appeal may be taken to the District Court, where the action shall be triable *de novo*, and the amount of compensation determined by a jury.

A Wisconsin act ('07 ch.536) provides that in any street where two companies own and operate single tracks the city may require by ordinance that the two companies shall jointly use such two tracks. Another section of this act permits any such company to acquire by condemnation the right to use the tracks of the other company. Another Wisconsin act ('07 ch.517) provides that whenever any city shall lay street railway tracks on any bridge or viaduct no exclusive franchise for the use of such tracks shall be granted nor shall any exclusive franchise be granted to a street railway company "upon any street or streets running toward such bridge or viaduct as to prevent any other railway company or companies from approaching or operating upon and along such tracks upon such bridge or viaduct."

**Freight and express.** A Pennsylvania act ('07 no.80) confers on street railway companies the right to do an express business, subject to such reasonable regulations as may be prescribed by the local authorities. The reasonableness of regulations prescribed is subject to the supervision of the Court of Common Pleas.

A Massachusetts act ('07 ch.402) permits a street railway company to become a common carrier of express and light freight, with the approval of the local authorities or, in case such approval can not be secured, with the approval of the State Board of Railroad Commissioners. The local authorities may with the approval of the state board make rules and regulations covering such traffic.

**Municipal debt and municipal ownership.** Minnesota ('07 ch.452) passed an act in relation to municipal ownership of public utilities, providing that in lieu of issuing bonds for the purchase or construction of such utilities a city may issue interest-bearing certificates secured simply by a mortgage on the plant and involving no general liability to the city. In case of default in interest payments the mortgage may be foreclosed and the plant conveyed to the bondholders with a franchise for not exceeding 20 years. This method is used because of the constitutional limitation of municipal indebtedness. As a debt secured by a mortgage upon the plant can never become a burden upon the taxpayers of the city it is assumed that it will not be considered in estimating the amount of



indebtedness for purposes of the debt limit. A general municipal ownership law passed by Wisconsin ('07 ch.665) contains a similar provision, as does also the law providing for municipal railway terminals in cities of the first class ('07 ch.247). The above laws follow the model of the Mueller Law passed by Illinois in 1903, which provided for the issue of street railway certificates in place of bonds for the purchase of street railways by the city of Chicago. Missouri passed a somewhat similar act relating to the acquirement of water works in 1905 and Iowa in 1906.

In 1908 Governor Hughes called attention to the fact that the indebtedness of New York city had reached such an amount that there was not a sufficient margin available to enable the city to provide for the construction of needed subways. He recommended the amendment of the Constitution so as to exclude from the computation of the city's debt limit all bonds issued for purposes which produce revenues in excess of maintenance charges. A resolution for an amendment of this character passed the Legislature of 1908, was repassed in 1909 and adopted by the people in the fall of the same year.

**Brakes and fenders.** A New Hampshire act ('07 ch.113) provides that all double truck electric street railway cars shall be equipped by May 1, 1910, with power brakes approved by the State Railroad Commissioners.

A Wisconsin act ('07 ch.390) provides that all cars operated on streets or highways shall be equipped with suitable fenders.

**Gas standards.** A New York act of 1907 ('07 ch.557) fixes the standards of purity, illuminating power and pressure of gas in cities of the second class. The gas shall be free from sulphuretted hydrogen and a test for determining such freedom is described. The minimum illuminating power is fixed at 16 candles for coal gas, 18 candles for mixed coal and water gas and 20 candles for carburetted water gas. The term "candle" is defined, as is also the method of making the test for illuminating power. The minimum pressure shall be sufficient to balance a column of water  $1\frac{1}{2}$  inches in height and the maximum pressure shall not be greater than an amount sufficient to balance a column of water  $3\frac{3}{4}$  inches in height plus an allowance at the rate of one inch for variation of each 100 feet of increase in altitude in the distributing system between the holder and the point of consumption. No maximum pressure is prescribed if the pressure is regulated by service governors supplied and maintained without charge to the consumer.

An Indiana act ('07 ch.103) provides that gas supplied by companies in Indianapolis must have at least 600 British thermal units per cubic foot.

**Meters.** An Ohio amendment of 1908 ('08 p.471) provides that upon test a meter shall be deemed correct if the variation is not greater than 3%. A Montana law ('07 ch.57) authorizes the council of any city or town to regulate the inspection and measurement of gas and electricity.

An Ohio act ('08 p.445) makes it unlawful to require a cash deposit for gas, water or electricity, from a freeholder or person furnishing a safe guarantee. In case such security can not be furnished a deposit of not exceeding the average monthly bill plus 30% may be required. On this deposit interest must be allowed at 6%.

A Minnesota act ('07 ch.343) authorizes any city or village to appoint inspectors of gas, electric light, heat and water meters.

**Telegraph and telephone.** General supervision over telegraph and telephone companies was conferred upon the Corporation Commission of North Carolina ('07 ch.469) and upon the Railroad Commissions of Nevada ('07 ch.44), of Wisconsin ('07 ch.582) and of Louisiana ('08 no.199). In South Dakota a Board of Telephone Commissioners was created ('07 ch.239). The board consists of the State Treasurer, the State Auditor and a third member appointed by the Governor. The board has general supervision and control of telephone lines and exchanges and has the power to make schedules of maximum rates including joint rates. The board may compel any telephone company to connect its lines with those of another company and to afford such company all reasonable and proper facilities for the interchange and switching of messages for a reasonable compensation and without discrimination.

In addition to the above actual legislation, recommendations for the supervision of telegraph and telephone companies were contained in the messages of the Governors of Florida, Montana, West Virginia, Kansas, Nebraska and Alabama in 1907 and New York and Ohio in 1908.

**Rapid transit.** *Boston.* A Massachusetts act ('07 ch.573) makes provision for the construction of an east and west tunnel in the city of Boston, designated as the River Bank Subway. The construction of this subway is to be begun at such time after the expiration of one year from the completion of the Washington street tunnel as the Boston Transit Commission and the company may agree upon.



A Massachusetts law ('07 ch.448) amends the Electric Railway Law ('06 ch.516) by providing a method for the determination of damages to abutting property in case of the placing of an elevated structure along a street. A claim for damages may be filed within three years. The main finding shall be upon the question "Has the petitioner's estate been damaged more than it has been benefited or improved in value by reason of location, construction, maintenance or operation of such railroad?"

The Massachusetts Legislature ('07 ch.247) instructed the Boston Transit Commission to investigate the condition and delay of teaming traffic and of the movement of freight in the city of Boston. The commission made a report on this subject to the Legislature of 1908. The principal recommendations made relate to the regulation of vehicular traffic.

*New York city.* In 1907 the Board of Rapid Transit Railroad Commissioners was displaced by the Public Service Commission for the First District. This commission under the terms of the Rapid Transit Act grants franchises for certain classes of rapid transit lines and subject to the approval of the city authorities lays out municipal rapid transit routes, prepares detailed plans, lets contracts and supervises construction and under certain conditions may directly operate municipal rapid transit roads.

*Ohio.* An Ohio act ('08 p.452) permits any city to authorize the construction of elevated railroads and tunnels. The franchise granted by the city may contain such terms and conditions as may be agreed upon and may provide for the purchase and ownership of the road by the city. Every such franchise must provide that 5 cents shall be the maximum rate of fare within the limits of the city. On petition of 10% of the voters the franchise must be submitted to a vote of the electors. The company constructing an elevated road or tunnel is held responsible for injuries to private or public property "lying upon or near to such streets, alleys, highways or grounds, which may be recovered by civil action brought by the owner before the proper court at any time within two years from the completion of the road."

*Missouri.* A Missouri act ('07 p.117) permits cities of 100,000 (St Louis, St Joseph and Kansas City) to build or acquire subways for the transportation of persons, express and freight and also for the location of pipes, wires and cables. The city may itself operate the subway or lease it on such terms as may be agreed upon but not for a longer period than 50 years and the lease must be ratified by



a vote of the electors. The city may sell bonds payable out of the revenue or income from such subway or subways. This comprehensive act in relation to rapid transit contains but three short sections.

*Wisconsin.* A Wisconsin act ('07 ch.247) enables cities of the first class to acquire and operate railway terminals, including main tracks, belt lines and other necessary connections. The city may lease such tracks and terminal facilities to railroads and other common carriers. The cost may be defrayed by the issue of city bonds or by the issue of railway terminal certificates secured simply by a mortgage on such terminals. In case of foreclosure of such mortgage the person or corporation coming into possession will obtain a franchise for operation for not exceeding 20 years and may charge such rates as may be provided in the mortgage or deed of trust

## MUNICIPAL GOVERNMENT

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The biennial legislative period of 1907 and 1908 is marked by an unusual number of important laws relating to municipal government. The most significant measures relating to the local organization of cities are those providing for the so called commission plan of city government. General acts authorizing the commission system were passed in Kansas, Iowa, and North and South Dakota in 1907 and in Mississippi in 1908; and other laws on municipal organization of more or less general application were passed in New Jersey, Ohio, Alabama, Oklahoma, Arizona, Nevada and Washington. Numerous special charters (new or revised) for particular cities were also enacted in a number of states. Some important measures were adopted providing for the preparation of future legislation on municipal government, notably the adoption in Michigan of a revised constitution granting cities and villages the right to make their own charters.

**Commission government.** Of the acts providing for the commission system of municipal government that of Iowa deserves first attention, both because of the combination of novel features and because of the adoption of the law by the two important cities of Des Moines and Cedar Rapids. The Iowa law ('07 ch.48) may be adopted by any city of the first class of 25,000 population or over, on petition and vote of the electors. In cities adopting the act municipal affairs are placed in charge of a council composed of a mayor and four councilmen, elected by the voters at large for a period of two years. Candidates are nominated at a primary election from those persons filing a nominating statement and a petition signed by at least 25 voters, with no party designations. The 10 candidates receiving the highest vote at the primary election are placed on the ballot at the general municipal election.

This small council is given all the executive, legislative and judicial powers of the former city officials. For executive and

administrative purposes there are provided five departments, each in charge of one member of the council. The council elects and may remove officials named in the law or city ordinances and has power to create, fill and discontinue other offices and employments and may remove any such officer or employee; it holds meetings at least once a month, passes ordinances and appropriations, and publishes monthly statements of receipts and expenditures, and provides for an annual examination of books and accounts.

Other provisions of the act provide for the "recall" of the elected members of the council, by petition and the election of a successor; for a referendum on ordinances, compulsory in the case of all franchises for public utilities and on petition in other cases; for the adoption of ordinances proposed by petition and ratified by the electors; and for a civil service commission to conduct examinations of applicants for positions in the city service and with power to affirm or revoke suspensions or removals of subordinate employees, subject to appeal to the council.

The Iowa law thus not only substitutes a small council or commission for the former numerous list of elective offices, but also introduces a nonpartizan primary and election, the method of recalling elective officials, the initiative and referendum on ordinances and franchises, and the merit system for subordinate positions in the city service.

Two Kansas acts ('07 ch. 114, 123) authorize the adoption of commission government, one by cities of the first class and one by cities of the second class. In cities adopting the act the municipal affairs are placed in charge of a board of five or three commissioners elected at large (one designated as mayor). In cities of the first class the whole board of five is elected at the same time for two years; in cities of the second class one of the three members will be elected each year. Party nominations are permitted but there is no party column; the names of the candidates are arranged in alphabetical order with the party or political principle added. The board of commissioners appoints other city officials and passes ordinances and appropriations, while for administrative purposes each member of the board has charge of a department. The grant of franchises is regulated in more detail than in the Iowa law: the term is limited to 20 years, the power to fix reasonable rates is reserved, adequate compensation is to be paid, and any franchise may be made subject to a referendum on petition of 10% of the voters within 60 days.



The Dakota laws (S. D. '07 ch.86, N. D. '07 ch.45) provide for a board of five commissioners in cities adopting the law. The North Dakota law provides for cumulative voting for commissioners; and the South Dakota law for the recall of the elected commissioners by the election of a successor. But neither of these laws contains provisions similar to those of the Iowa law for nonpartizan elections, the initiative and referendum or the merit system of appointments.

In addition to general laws authorizing the adoption of commission government, special acts providing for this system were enacted in 1908 for Haverhill and Gloucester, Mass., and for Dallas, Fort Worth, El Paso, Greenville and Denison, Tex. The Dallas and Haverhill acts provide for the initiative, referendum and recall; and the Gloucester act for the initiative and referendum.

A number of home rule charters for cities in California have also provided for the initiative and referendum, and in some cases for the recall of officials, without introducing the commission form of government. These include the cities of Santa Monica, Alameda, Santa Cruz, Eureka, Long Beach, Vallejo and Riverside.

**The Ohio code.** An act of the Ohio Legislature ('08 p.562) makes important changes in the municipal code for the government of cities in that state. These provisions concentrate the executive administration of the cities under the control of the mayor and establish the merit system for the subordinate service. A single director of public safety and a single director of public service are established in each city in place of former boards. These officials and also the heads of subdepartments are appointed and removable by the mayor; while formerly the board of public service was elected and thus not dependent on the mayor, and the board of public safety was appointed by the mayor and council or (if the mayor's nominations were not confirmed by the council) appointed by the Governor of the state.

Under the law of 1908 the mayor, the director of public service and the director of public safety constitute a board of control whose approval is necessary to the award of contracts of over \$500. The foregoing changes went into effect August 1, 1909.

From and after January 1, 1910, a civil service commission is to be appointed in each city of Ohio, to be appointed by the president of the board of education of the city school district, the president of the board of sinking fund commissioners and the president of the council. The civil service of each city will be divided

into a classified and unclassified service; and appointments in the classified service will be made from registers of candidates passing competitive examinations. Removals are not restricted except for the police and fire departments, where an appeal in case of dismissal may be taken to the civil service commission.

In the concentration of administrative power and in the provisions for the merit system, the Ohio law resembles in its general tendencies the Iowa law for the commission plan; and as the provisions of the Ohio law go into effect in every city of Ohio, the changes made affect many more cities than the adoptive law in Iowa. The Ohio law, however, has no provisions similar to those in the Iowa law for nonpartizan elections, the recall of officials during their term, or for the initiative and referendum on ordinances and franchises; while in the Ohio cities the council continues as a distinct body from the executive officials.

**Special charters.** The most important charter for a single city presented during the years under consideration was that for the city of Chicago. A carefully prepared charter had been agreed to by a convention organized by action of the city council, providing for the consolidation of local governments and large additions to the local autonomy. But the measure was seriously altered in the Legislature; and when the charter as passed by that body was submitted to the voters of Chicago on September 17, 1907, it was defeated.<sup>1</sup>

Other special charters for the two years in review include nine in New York state (Binghamton, Jamestown, Newburgh, North Tonawanda, Port Jervis, Glens Falls, Yonkers, Oneonta and Ithaca); three in Connecticut (New Britain, Orange and Bridgeport); two in Vermont (Burlington and Rutland); three in Virginia (Portsmouth, Charlottesville and Bristol); seven in West Virginia (including Charleston and Wheeling); two in North Carolina (Charlotte and Raleigh); eight in Tennessee (including Bristol, Jackson, Knoxville and Memphis); twenty small cities in Georgia, eight in Florida, and four in Texas.

The charter of Binghamton, N. Y., contains 182 pages; and a number of others are over 100 pages in length. The total for the 66 special charters noted above makes it impossible here to go into any analysis of their provisions.

**The merit system.** A number of general and special laws extend the operation of the merit system in the civil service of

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<sup>1</sup> C. E. Merriam in *American Political Science Review*.



cities. As already noted the amendments to the Ohio municipal code and the Iowa law on commission government provide for civil service commissions in cities covered by these statutes. In New Jersey an act establishing a state civil service commission ('08 ch.156) provides that any municipality may come under its provisions by a referendum vote; and Newark, Jersey City and Bayonne have voted to accept the act.<sup>1</sup> In Pennsylvania ('07 no.167) a civil service commission has been established in the cities of the second class (Pittsburg and Scranton). The new charter of Wheeling, W. Va. ('07 ch.11) provides for the merit system in the fire and water departments. Springfield, Ill. has voted to adopt the municipal service law of Illinois.<sup>1</sup> By a Kansas law the fire departments of cities of the first class with less than 60,000 population have been placed under civil service rules ('07 ch.117).

**Methods of passing laws and charters.** Of interest also are several acts making provision for the preparation of proposed laws in municipal government. In March 1907, the Alabama Legislature provided ('07 p.299) for a joint legislative committee to sit during the recess to prepare a general municipal bill—the general law being passed in August after the recess ('07 p.790).

A Wisconsin act ('07 ch.598) provided for a charter convention to present a comprehensive home rule charter for the city of Milwaukee, the convention to be composed of representatives of political parties elected on the basis of one member to each 1000 voters in each party.

In New York an act of 1907 established a commission to suggest legislation for a revision of the charter of New York city; and in the following year there was provided a commission, appointed by the Governor, to investigate the government of New York city, and in its discretion to draft a new charter and administrative code and to report to the Legislature in 1909 ('07 ch.607; '08 ch.114).

The Boston Finance Commission appointed in 1907 as the outcome of its investigations into the financial conditions in Boston presented to the Massachusetts Legislature of 1909 a report recommending important changes in the municipal government of that city.

An Oklahoma act of 1908 (ch.12 art.4) authorizes all cities with a population of more than 2000 to frame and adopt charters for their own government, carrying out the provisions in the Con-

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<sup>1</sup> C. R. Woodruff in Proceedings Nat. Munic. League, 1908.



stitution of that state. Charters will be framed by boards of freeholders, consisting of two members from each ward, submitted for ratification to the electors, and if ratified shall be submitted to the Governor and approved by him if not in conflict with the Constitution and laws of the state. Charter amendments may be proposed by the legislative authority of the city; and an election of a board of freeholders may be called by the legislative authority or by petition of the qualified electors signed by 25% of the votes cast at the preceding election.

Any provisions of a city charter framed under this law will prevail over any conflicting provisions of any state law relating to cities of the first class; but the charter is subject to the provisions of the state Constitution and must not conflict with other general laws of the state not relative to cities of the first class.

The revised constitution of Michigan, ratified in November 1908, grants important powers of home rule to cities and villages. It authorizes the electors of each city and village to frame, adopt and amend its charter, and gives authority to regulate its municipal concerns subject to the general laws of the state. Unlike a number of states further west, the Michigan Constitution does not prescribe the precise methods for preparing local charters; and the enactment of general laws for the incorporation of cities and villages, to carry out the provisions of the Constitution, was one of the most important duties of the Legislature of 1909. Michigan is the first state east of the Mississippi to adopt the system of home rule charters in its state Constitution; and this action is especially significant of the extension of this method of legislation in municipal government.

**Municipal functions.** The most important legislation on municipal powers and functions has been in regard to the supervision and control of municipal public utilities, notably by the systems of state control established in New York and Wisconsin; and in regard to municipal ownership in Michigan and other states. There have also been some important laws with regard to parks and police; and the usual large amount of minor legislation, in the form of both general and special acts, in regard to other branches of municipal activity.

The laws relating to state regulation and municipal ownership of municipal utilities are noted elsewhere in connection with the subject of public utilities. (*See p. 267.*)

Important acts relating to public parks in and near cities were

passed in New York, Rhode Island, Maryland, Indiana, Illinois, Kansas and Washington. In New York the Bronx Parkway Commission has been established ('07 ch.594), a board appointed by the Governor to acquire and preserve lands along the Bronx river, the cost to be apportioned three fourths to the city of New York and one fourth to Westchester county. In Maryland the city of Baltimore has been authorized ('08 ch.188 p.641) to issue \$3,000,000 of stock to extend the park system and establish a center for public and other buildings and public squares. An Indiana law ('07 ch.274) establishes a board of park commissioners in cities of the first class (Indianapolis). In Illinois, park commissioners have been given power ('07 p.433) to acquire submerged and shore lands for park purposes, and on vote of the district to issue bonds to pay therefor. An act of the state Legislature of Washington ('07 ch.98) authorizes the formation of a metropolitan park district by a city of the first class and contiguous territory, on a referendum vote.

Legislation in regard to police includes important acts in regard to the police of New York city and St Louis, acts in regard to boards of police commissioners in Alabama and Iowa, and an act establishing a force of State Police in Nevada. The New York city act ('07 ch.160) adds much to the control of the police commissioner over uniformed police. The special class of inspectors of police has been abolished, and in their place the police commissioner is authorized to detail, at his discretion, 19 police captains to be acting inspectors. The central office bureau of detectives and detective sergeants have also been abolished; and the police commissioner is authorized to organize a detective bureau by temporary details from the regular force. Changes of titles for the subordinate officers have been made, and the number of patrolmen increased from 6382 to 7839.

The Missouri law ('07 p.113) establishes in a city of over 300,000 (St Louis) the three platoon system and places patrolmen and their superior officers on a tenure of good behavior in place of the former term of four years.

In Alabama act ('07 p.402) establishes a police commission in cities of 35,000 in counties of 125,000 — practically a special act for the city of Birmingham. The commission, consisting of the mayor and two elective members, is given general supervision and discipline of the police. An Iowa law ('07 ch.29) provides for boards of police and commissioners in cities of over 20,000.

Nevada has followed the precedent of Texas, New Mexico and

Pennsylvania, by establishing a force of State Police, to consist of a superintendent, appointed by the Governor at his pleasure, an inspector, four sergeants, 25 police officers and 250 reserves ('08 ch.4).

A Colorado act ('07 ch.234) grants a number of additional powers to cities of the second class and to towns. Of the 10 clauses, the most important are those authorizing such cities and towns to license, regulate and tax business and amusements, and by means of special assessments to establish sewerage systems, provide for sidewalks, and grade and improve streets.



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zc

STATE FINANCE

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**Public lands.** A reference to the *Index of Legislation* and to the *Digest of Governors Messages* for the years 1907 and 1908 will show that there has been a large amount of legislation both recommended and enacted for the purpose of protecting public lands from undue exploitation by private interests. This movement for the conservation of the public lands of the states has been contemporaneous with a similar federal movement under the leadership of President Roosevelt for the conservation of natural resources.

The following recommendations and laws are worthy of mention as typifying the movement. Governor Johnson of Minnesota (Jan. 9, 1907) called attention to what he termed the absurdity of the Minnesota statute providing that the state shall receive a fixed royalty of 25 cents per long ton on iron ore obtained from mineral lands leased by the state. He recommended that a minimum royalty of not less than 50 cents per ton be fixed on state leases, and that a state board be authorized "to dispose of mineral leases at public auction to the highest bidder" without reference to any maximum price fixed by law. Governor Cutler of Utah recommended (Jan. 15, 1907) that no state lands believed to contain coal be sold; and Governor Chamberlain of Oregon (Jan. 16, 1907) urged the Legislature to withdraw tide lands from sale for 10 years. In his message of May 12, 1908, Governor Blanchard of Louisiana recommended that existing public land laws be revised and that prices be raised to others than bona fide homesteaders. Governor Stokes of New Jersey (Jan. 8, 1907) repeated his previous recommendation that the state guard with particular care its riparian lands from being entirely absorbed by private ownership.

New Mexico ('07 ch.104) created a Commissioner of Public Lands, and Louisiana ('08 no.144) established a temporary Commission on Conservation of Natural Resources.

**Public parks.** The principal item of interest under the sub-

ject of public parks is the statute of Wisconsin ('07 ch.495) creating a state park board consisting of three members appointed by the Governor for a term of six years, to have general supervision over state parks and to make recommendations to the Governor concerning the "acquisition of new parks and places of historic interest and natural beauty."

**Buildings.** Two states authorized expenditures for the construction of new capitols; for this purpose South Dakota ('07 ch.83) appropriated \$600,000, and Wisconsin ('07 ch.537) appropriated \$600,000 annually for nine years in addition to amounts previously appropriated. A large number of states made appropriations for important additions or improvements to their capitols.

Three states took action for the erection of executive mansions, Nevada ('07 ch.33), New Mexico ('07 ch.67) and Tennessee ('07 ch.38). Governor Patterson of Tennessee had said in his message of January 7, 1907, that, so far as he knew, Tennessee was at that time the only state that had failed to provide a suitable residence for its executive. The recommendation made by Governor Crawford of South Dakota (Jan. 8, 1907) is noteworthy. "I believe," he said, "that a permanent plan of the grounds, with drives, parks, fountains, walks, lawns, trees, and locations of buildings to be erected in the future [for all state institutions] as the institution grows, should be carefully made in advance and every new improvement should be so placed as to harmonize with such plan."

**Purchase of supplies and insurance.** Governor Hughes of New York in his message of January 1, 1908, pointed out that to a large extent supplies of the same sort are required in the different state institutions, and recommended that these supplies be purchased by the state under one system and through a single board.

Recommendations were made by Governor Pardee of California (Jan. 7, 1907) and Governor Dawson of West Virginia (Jan. 8, 1907) that the state should establish an insurance fund so as to provide for its own insurance for state buildings.

**Accounts.** Governors messages and the records of financial legislation during the two years under review show a strong demand throughout the country for greater uniformity in public accounting. Recommendations for such uniformity were made by the Governors of six states, i. e. Louisiana,<sup>1</sup> New Jersey,<sup>2</sup> Oregon,<sup>3</sup>

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<sup>1</sup> May 12, 1908.

<sup>2</sup> Jan. 21, 1908.

<sup>3</sup> Jan. 16, 1907.



Tennessee,<sup>1</sup> Vermont,<sup>2</sup> and West Virginia.<sup>3</sup> Oklahoma ('08 ch.79 art.1) directed the state examiner to provide a uniform system of bookkeeping for the state. New Jersey ('08 ch.305) established a Department of Accounts, in charge of the Auditor of Accounts appointed by the Governor and Senate for a term of five years with a salary of \$3000. In addition to its auditing duties the department is required to establish a uniform system of bookkeeping in state departments and institutions. Texas ('07 ch.31) created a Board of State Accounting to consist of the Governor, the Secretary of State and the Chairman of the Railroad Commission. The board is authorized to employ public accountants to investigate methods of bookkeeping in the various state departments and institutions and to install a more adequate and uniform system of accounting. West Virginia ('08 ch.33) made the State Tax Commissioner Chief Inspector and Supervisor of Public Offices, and directed him to prescribe and install a uniform system of public accounting, auditing and reporting.

**Debts.** California ('07 p.1366) adopted an amendment to her state Constitution (Nov. 2, 1908) extending the maximum period for which state loans might run from 20 years to 75.

**Custody of public funds.** The agitation for a more rational system of caring for federal funds than the present independent treasury — national bank hybrid system has probably been in part responsible for the considerable amount of recent agitation in favor of more satisfactory methods of caring for state funds. The Governors of seven states<sup>4</sup> made recommendations upon this subject, all of whom recommended the employment (or more extensive employment) of banks as depositaries of public funds, and most of whom advised the requirement by the state of reasonable interest rates on government deposits, and of adequate collateral security. Five states<sup>5</sup> took legislative action in line with these recommendations.

**Summary.** In the field of state finance, aside from taxation, the only general movements sufficiently pronounced to deserve men-

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<sup>1</sup> Jan. 16, 1907.

<sup>2</sup> Oct. 4, 1906.

<sup>3</sup> Jan. 28, 1908.

<sup>4</sup> The States were: Alabama (July 9, 1907), Delaware (Jan. 1, 1907), Illinois (Jan. 9, 1907), Indiana (Jan. 10, 1907), South Dakota (Jan. 8, 1907), Louisiana (Nov. 11, 1907) and Mississippi (Jan. 21, 1908).

<sup>5</sup> The states were: Alabama ('07, ch.280), California ('07, ch.50), Montana ('07, ch.123, 141), Illinois ('08, p.32) and Louisiana ('07, ch.23, 183, 282).



tion, during the period from October 1, 1906, to October 1, 1908, were: (1) the movement for a more careful conservation of public land and other public natural resources; (2) the movement in favor of a greater degree of uniformity in public accounting; and (3) the movement toward a larger utilization of banks for the custody of public money, and toward more exacting requirements concerning the payment of interest on public deposits.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zd

LOCAL FINANCE

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One characteristic is prominent in the legislation here reviewed: it is nearly all piecemeal legislation. This is partly due to the fact that the laws reviewed are only those classed as purely financial. But the scrappy character is more in evidence than usual this time. There are only one or two laws which give evidence of any comprehensive plan, while the bulk of them must be interpreted as simply the results of the absence of any such plan. "Part of borough hall may be rented," "Authorizing board of supervisors to employ janitor for courthouse," "may have artesian well" on county farm: these trivialities show the chaotic state of the legislation about local finance—a subject which needs system almost as much as it needs honesty. The worst offender in this respect is New Jersey. Of the 54 laws listed in the Index for 1908 (2552-93), relating to property, taxes, and accounts, 18 or just one third are New Jersey laws.

The campaign against graft showed itself in 1907 in 11 laws about the manner of letting contracts; in 1908 there was only one such law (Index, 2560, 2561).

There is the usual large batch of laws about special assessments, but there are none from the six New England states or New York.

**Budget.** The only distinct advance in this subject is by Wisconsin ('07 ch.494). Department estimates are sent in by November 1. The budget is drafted by a board of estimate composed of the mayor, president of the council, comptroller, city attorney, president of the board of public works, and city treasurer, with the city clerk as secretary. This draft is submitted to the council by January 1. The council enacts the budget by February 1. The budget is complete, embracing expenditures of all kinds, revenue of all kinds, and the amount of bonds to be issued. Every officer receiving fees or incidental revenue of any kind, must turn the same into the city treasury before he can draw his month's salary. This is a good beginning in a state which has heretofore been backward in its budgetary procedure.

There is a slight tendency to remove or extend the limit to the tax rate, instead of the tendency to lower it noted in the review of two years ago. Two laws limiting the rate were declared unconstitutional on the ground that they did not raise sufficient revenue to pay the indebtedness (*see* Index for 1908). New Jersey removes the limit in incorporated towns where it is less than 15 cents on \$100 ('07 ch.137). Wisconsin doubles the limit for county purposes ('07 ch.430).

**Accounts and reports.** These are to be improved. An Illinois law ('07 p.218) creates the office of auditor for Cook county (Chicago) and requires him to introduce a uniform system of accounts and reports in every county office. Colorado creates the office of public examiner for the state ('07 ch.204), "charged with the duty of examination and supervision of public accounts," and the installation of a uniform system of accounting and reporting for all state and county offices by January 1, 1909. An Iowa law ('07 ch.24) extends to county officers the supervision by the State Auditor which was begun for municipalities in 1906 (ch.34). New Jersey has changed the title of "state auditor" to "auditor of accounts" ('04 ch.198; '08 ch.305), and empowered him to examine the books of county officials who collect money for the state. The Oklahoma State Examiner and Inspector ('08 ch.79 art.1) has similar but more extensive duties, since he has "full authority to prescribe a system of bookkeeping for all county officers." The Governor of Washington recommended such a law in 1907. In Massachusetts ('07 ch.97) the State Bureau of Statistics collects financial data from the cities and towns of the state, and the first volume of *Comparative Financial Statistics* has already appeared.

**Financial officers.** The tendency toward longer terms of office appears in Massachusetts where the three year term for assessors, already established for some cities and towns, is now made universal ('07 ch.579), Boston excepted; in Missouri where the term of the county treasurer is extended from two years to four ('07 p.449); in Virginia where amendments to the constitution were referred to the Legislature making city and county treasurers eligible for reelection for more than two terms ('08 ch.37, 48). In 1907 the Governor of Utah recommended a four year term for county assessors. In 1907 Nebraska passed a group of laws (ch.33, 36, 37, 38) creating the office of comptroller for the county containing a city of metropolitan class (Omaha), and making the county comptroller ex officio city comptroller. This peculiar ar-



rangement has a precedent in a Texas law ('05 ch.161) applying to any county containing a city of 25,000.

**Depositories.** Depositories for public funds continue to receive attention especially in the South and West. In 1907 Arkansas passed an exacting law (no.208) about depositing county funds, but applicable only to certain counties. It restricts the choice to banks within the county. Louisiana passed a law of broader scope, for state funds as well as local ('07 no.23). California formerly required cities and counties to keep their funds in safes or vaults—to maintain what has been known in the history of the United States as the “independent treasury;” but now it permits municipalities and counties to deposit in any state or national bank within the state ('07 ch.522). The banks must deposit bonds as security for the funds they receive, and pay at least 2% interest. Washington passed a depository law for cities and towns, and another for counties ('07 ch.22, 51). Cities and towns must deposit within the county, and counties within the state. Minnesota permits cities to select their depositories anywhere in the United States ('07 ch.17). It should be noted that these laws omit the requirement usual in older portions of the country that treasurers must make payments by means of checks, nor do they provide for the insurance of deposits by a guaranty company.

**Debts.** The \$8,000,000 loan of New Orleans, mentioned in the Review of 1906, could not be floated under the terms fixed. To alter the terms a law was passed in 1908 (no.116) submitting an amendment to the constitution which was ratified in November. The improvement in the terms consists in allowing a commission of 6%. Minnesota ('07 ch.178) and New Jersey ('07 ch.103) have raised the rate of interest allowed on the bonds of certain cities, and New York has virtually done the same ('07 ch.439, 534).

Laws permitting the refunding of old debts have been passed in the following states: Alabama ('07 p.532) amends an earlier act and omits the prohibition against increasing the liability; Kansas ('07 ch.137); Louisiana ('08 no.299, 300), 40 year bonds; Ohio ('08 p.205), extending time to 30 years.

Laws permitting the issue of long time bonds for improvements which are sometimes short-lived have been passed in the following states: Wisconsin ('07 ch.235), dredging and harbor improvements; Virginia ('08 ch.70), 34-year, “by any county for the purpose of macadamizing or otherwise permanently improving the public roads and bridges.”

Laws allowing the funding of floating debts have been passed in the following states: Kansas ('07 ch.132, 137); Minnesota ('07 ch.62), limited to eight months; North Dakota ('07 ch.265), on petition of citizen owners of five eighths of the taxable property, incorporated village; South Dakota ('07 ch.91, 103). In January 1907, the Governor of West Virginia noted the suggestion of the tax commissioner "that these local governments having debts which were contracted prior to the enactment of the new laws, be allowed to levy not exceeding 5 cents on the hundred dollars in addition to the ordinary levy, such levy to be applied to the payment of these debts," but the Governor himself recommended the issuing of bonds. The Governor of Rhode Island says: "There is no reason whatever why a city or town should not be obliged by law to make some sound provision for the payment of its notes and other indebtedness, as well as for the payment of its bonds," and urged action by the Legislature.

**City charters.** The special charters establishing the commission form of government usually make one of the four commissioners the head of the financial system. In Kansas cities of the second class ('07 ch.123) this commissioner is also the auditor; in cities of the first class ('07 ch.114) an expert accountant of five years experience is appointed auditor. In the Dakota cities there is also an auditor with large powers (S. D. '07 ch.86, N. D. '07 ch.45). In several Texas cities ('07 special laws ch.71, 7, 24) the office of treasurer is let by contract to the best bidder. In some cases the commission plan reduces financial procedure to a simplicity which seems unsafe (Ia. '07 ch.48). But more often reasonable formalities are preserved: written estimates from the heads of departments, an annual budget preceding the tax levy, auditing accounts before they come before the council, rules against overdrawing appropriations, etc.

Of the two laws passed by the Legislature of New Jersey in 1908, which cities may adopt ('08 ch.179), one contains substantially the same financial provisions as the law of 1907 for cities of the second class (ch.99). Although the city council is small, there must be an annual appropriation ordinance and the comptroller has large powers. The other law ('08 ch.250) leaves the details of financial administration to the council.

Boards of finance after the New York plan have been established in the following: Burlington and Rutland (Vt. '06 no.261, 280); New Britain, Orange and Bridgeport (Conn. '07 special acts ch.405, 445, 461); Binghamton (N. Y. '07 ch.751).



## TAXATION

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During the period October 1, 1906 to October 1, 1908, covered by this review of taxation in the states, a large number of measures relating to taxation were discussed and passed. Ignoring the relatively unimportant measures we may classify the important ones as follows, using in the main the classification heretofore used in this Review: (I) Study and reform of taxation; (II) general property tax, (*a*) objects taxed, (*b*) modes of assessment and collection; (III) measures relating to special forms of taxation, (*a*) general business or occupation taxes, (*b*) various special taxes on corporations, (*c*) income tax, (*d*) inheritance tax; (IV) separation of state and local revenue.

### **I Study and reform of taxation**

The past two years have been years of peculiar unrest with reference to the subject of taxation. In many sections of the country the public seem to be awakening to the fact that our state tax systems are in important respects antiquated and unsuited to present day conditions. This unrest has given further impetus to the movement begun some years ago for the establishment of expert state tax commissions to study the entire subject of state and local taxes, recommend reforms and, in many cases, to act as permanent advisory and administrative bodies.

**Governors messages.** Governor Johnson of Minnesota, whose recommendations on the subject of taxation during the years under review have been of much value, said in his message of January 9, 1907, "I would most urgently recommend legislation providing for the establishment of a permanent tax commission, which shall be empowered to make a careful and scientific study of this question and report from time to time, both to the executive officers and to the Legislature." This recommendation was soon followed by the creation of a high grade permanent tax commission in Minne-



sota. (See below under Laws.) In the following year Governor Blanchard of Louisiana said in his message of May 12 (p.19), "Now 12 or more states of the Union have permanent tax commissions and others are preparing the way for them. We should have one in Louisiana—a permanent tax commission of three members, whose whole time should be given to the work committed to their hands."

During the period under review tax commissions to study the subject of taxation and report their findings to the Legislature were recommended by the Governors of Illinois (Oct. 8, 1907), New Hampshire (Jan. 3, 1908) and Vermont (Oct. 4, 1906).

**Laws.** This period witnessed the actual creation of more tax commissions than were recommended in governors messages. Permanent commissions were created in five states, i. e. Alabama ('07 p.425), Indiana ('07 ch.93), Kansas ('07 ch.408), Minnesota ('07 ch.408) and North Carolina ('07 ch.258) in which the Board of Corporation Commissioners was made also a state board of tax commissioners. These permanent tax commissioners were given large advisory and administrative powers, a good illustration of which is seen in the powers conferred upon the Minnesota commission, which are in part as follows: "To have and exercise general supervision over the administration of the assessment and taxation laws of the state . . . To confer with, advise and give the necessary instructions and directions to local assessors throughout the state . . . To direct proceedings, actions and prosecutions . . . to enforce the laws [relative to the assessment and collection of taxes] . . . To summon witnesses to appear and give testimony and to produce books, records, papers and documents relating to any tax matter which the commission may have authority to investigate or determine . . . To investigate the tax laws of other states and countries and to formulate and submit to the legislature of the state such legislation as . . . [it] may deem expedient . . . To consult and confer with the Governor of the state upon the subject of taxation . . . To transmit to the Governor" and to the Legislature a biennial report relative to taxation and taxable property within the state. The law also requires that "one or more members of the commission shall officially visit at least one half the counties of the state annually and shall visit every county in the state at least once in two years and inquire into methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties."

In addition to the five permanent tax commissions above mentioned there were created four temporary commissions to investigate the tax systems of their respective states and report conditions and plans of reform to the Legislature. The four states were Delaware ('07 ch.115), Massachusetts ('07 r.129), Maine ('07 r.108) and New Hampshire ('07 ch.92).

## II General property tax

*a* **Objects taxed.** As in the past the general property tax furnished the bulk of state and local revenue and received the brunt of the criticisms. Governors messages and legislative enactments continued to bear witness, as they have since colonial times, to the widespread evasion and to the inequities of the personal property tax. Yet during these two years there seems to have been comparatively little progress in the direction of eliminating or of reforming this tax. The lists of personal property required of taxpayers have in some states been made more detailed, the oaths required of assessors and taxpayers have been made stronger and the penalties for evading the tax have been made greater, but evasions show little signs of abatement. Governor Jelks of Alabama (Jan. 8, 1907) voiced a widespread conviction when he said "that ultimately the law must be so changed as to exclude altogether for consideration all such personal property as may be entirely hidden from the assessor, except such as the law requires court or state records to disclose."

In 1907 the state of Washington enacted a law (ch.48) exempting from taxation mortgages, notes, accounts, moneys, certificates of deposit, tax certificates, judgments, state, county, municipal and school district bonds and warrants; and providing that "no deduction shall hereafter be allowed on account of an indebtedness owed." This law was a long step away from the common but pernicious American practice of taxing both tangible wealth and the paper evidences of ownership of that wealth. An attempt was made to have the statute declared unconstitutional on the ground of inequality of taxation, but the Supreme Court of the state upheld the constitutionality of the act (*State v. Parmenter*, 96 P. 1047 [1908]), maintaining that credits are in effect the mere legal right to demand the delivery of money or other property in the future and that until such transfer is made the property is taxed wherever it may be, so that the total actual property of the state may be once taxed without taxing credits. The act was held, how-



ever, to be unconstitutional in so far as it exempted money from taxation, in that money, unlike the other items exempted, was an article of "intrinsic" value.

A step in the same direction was taken by Louisiana ('08 no.62), which amended its Constitution by providing for the exemption from taxation, under prescribed conditions, of loans made upon mortgages of real estate and the notes evidencing them, also of loans made by life insurance companies to their policy holders upon the sole security of policies. Minnesota ('07 ch.328) imposed a mortgage registry tax of 50 cents per \$100 in lieu of all other taxes on mortgages. New York enacted a similar law the same year (ch.340). Vermont ('07 no.22), in passing an act taxing standing timber sold and conveyed without the land on which it stands, provided that "there shall be no deduction from the appraisal of such standing timber on account of debt owing."

The movement away from the taxation of credits and paper evidences of the ownership of property, on the other hand, appears to have received something of a check in certain quarters. Governor Davidson of Wisconsin, for example, said in his message of January 10, 1907 (p.30-31), "In 1903 . . . the passage of the mortgage exemption law resulted in the lowering of the local assessments of personal property that year by 16% . . . This legislation has entirely failed to meet the expectations of its advocates and the results of its enactment have disproved every argument advanced in favor of the exemption of credits. Its only result has been to exempt the owner of the credit without any corresponding advantage to the borrower . . . It has failed to lower the rate of interest as promised . . . It appears that the average rate of interest was 5.29% for the three years preceding January 1, 1903; and 5.42% for the three years following July 1, 1903. During the same periods it appears that the rate of interest charged by banks upon credits not affected by the terms of that act have been a trifle lower during the later than earlier period . . . It appears from the report [of the tax commission] that the small borrower, the person who most needs the protection of the law, receives no benefit from the mortgage exemption. Very large mortgages, in sums over \$5000, seem to constitute an exception to the rule." The Governor recommends that the act of 1903 be repealed and that the law be restored as it was before the enactment of that act.

The supporters of the mortgage exemption act, on the other



hand, claim that the measure has not been in operation long enough to work out its full effect, especially with regard to the interest rates on the smaller loans, where competition is less severe than upon the larger ones. They also point to the fact that the years in question were years in which the general movement of interest rates nearly everywhere was upward.

*Exemptions.* A great many acts were passed exempting from taxation specific kinds of property, for the sake of encouraging certain institutions or enterprises. Two states, Florida ('07 no.129) and Vermont ('06 no.23), passed acts exempting from taxation property of Young Men's Christian Associations. Two states, Vermont ('07 no.27) and West Virginia ('07 ch.75), exempted property, under certain limitations, of college fraternities and societies. Alabama ('07 p.785) exempted for 10 years property devoted to the manufacture of devices for the protection of human life. Alabama ('07 p.520), in order to encourage the development of unused water power, exempted for 10 years hydro-electric power corporations, and Arizona ('07 ch.92), with like object, exempted for 10 years dams hereafter constructed for irrigation, watering stock, mining and generating electricity.

The newly created state of Oklahoma enacted several tax laws that are rather unique for this country, tax laws of the kind that are called "progressive" by their promoters and "socialistic and confiscatory" by their opponents. One of these measures is a graduated land tax with a rapid rate of progression. The act ('08 ch. 81 art. 7) levies the same ad valorem rate on 640 acres of average taxable land that is levied on personal or other property. "\$20 per acre" the law declares, "shall be . . . construed as the average value of Oklahoma land, and any number of acres, or any fraction of an acre of the taxable value of \$20 shall be treated . . . as one acre of the average land." In addition to the regular personal property tax rate on 640 acres of average taxable land there are taxes on excess holdings as follows: 640 acres to 1280,  $\frac{1}{4}$  of 1%; 1280 acres to 3000, 1%; 3000 to 5000, 2%; 5000 to 10,000, 5%; 10,000 to 25,000 10%. The graduated excess is calculated "upon the basis fixed for taxation upon such land, exclusive of the improvements thereon." Lessees are subject to a similar graduated tax on incomes from leaseholds of various sizes.

The object of the act appears to be not so much to raise revenue as to prevent large holdings of agricultural lands by individuals or corporations. The tax apparently will not reach to any extent large

holdings of city real estate, because the act contains the proviso that "320 acres of land shall be exempt . . . regardless of the value thereof." To the holder of more than 320 acres of land each \$20 worth in an acre is computed as an acre in levying the tax; to the owner of 320 acres or less, each acre counts as an acre regardless of its value. The most valuable land, however, will be in the cities and there will be presumably few individual holdings of city real estate above 320 acres. It will accordingly work as an unearned increment tax on large landholders in rural districts, but fail to do so in the case of city real estate, the kind of land for which the justification of an unearned increment tax is greatest.

*b Modes of assessment and collection.* A large number of acts were passed during the two years under review, looking toward the more effective assessment of the general property tax. Most of these measures are of minor importance and have only a local interest.

There is evidence of a continuation of the movement toward a greater degree of centralization in the assessment of the general property tax. Recommendations were made for the substitution of county assessors for local ones, by the Governors of Minnesota (Jan. 9, 1907), North Dakota (Jan. 9, 1907) and Tennessee (Jan. 7, 1907, April 1, 1907); while recommendations for the establishment of state boards of assessment and equalization were made by the Governors of West Virginia (Jan. 8, 1907), Alabama (Jan. 15, 1907) and Delaware (Jan. 1, 1907). Governor Heywood of South Carolina complained (Jan. 8, 1907) that the existing State Board of Equalization was too unwieldy and that the members felt that they represented their own counties rather than the state at large. He recommended a reduction in the size of the board to five and that the members be appointed by the Governor. South Dakota enacted ('07 ch.87) that city assessors should be appointed by the mayor, with the approval of the city council, instead of being elected as formerly.

Another method of growing importance for making the assessment of certain kinds of personal property more effective, is that of taxing securities by requiring that the tax be deducted by the corporation, for the state, from the interest or dividends, before they are paid. It is virtually an application of the income tax principle so extensively used in England, of "tapping the income at its source." The method is used most widely in the United States with reference to the taxation of bank shares and bank deposits. Acts



were passed in three states providing for the assessment of bank shares to the holders at the place where the bank is situated, and for the deduction by the banks of the tax from the dividends to be paid. The states were Indiana ('07 ch.281), Nevada ('07 ch.97) and Oregon ('07 ch.265). Vermont ('06 no.41) applied the same principle in imposing a tax on interest-bearing deposits in national banks. In this case, however, the payment of the tax by the bank for the depositor was made optional to the bank. Alabama ('07 p.455) extended its tax of 1903 on "corporate excess" to cover railroad, telegraph, long distance telephone, express and sleeping car companies. The tax is assessed in the county where the corporation has its home or chief office in the state, "and to the person in whose name such shares stand on the books of the corporation, and not to the corporation."

Another measure of importance for making more effective the assessment of the general property tax is the Wisconsin law ('07 ch.522), making it the duty of the tax commission to collect statistics and other information concerning the recorded sales of real estate in each county, the assessed valuation of such property and the price at which sold. The act provides that the statistics for each year shall be compiled by assessment districts and by counties in tabular form and shall be filed in the office of the tax commission, and that an abstract shall be furnished each county clerk to be printed by him and placed before the county board at its next annual meeting.

### III Measures relating to special forms of taxation

*a* **General business or occupation taxes.** The South continues to be the section in which the more important developments are taking place in connection with general business taxes. A readjustment of such taxes is a natural outcome of the decline in revenue incident to the spread of the prohibition movement in many of the Southern States.

Governor Glenn of North Carolina (Jan. 9, 1907) complained that there were great inequalities in the assessment and collection of the state business and privilege taxes among the different counties, and recommended that the "sheriff of each county be required to collect all special taxes for the state, receiving commissions for so doing, as in case of other taxes."

In Florida ('07 no.2) a state license tax was imposed on nearly all kinds of business and on many professions. Counties, incorporated



cities and towns were authorized to impose further taxes of the same kind upon the same subjects, provided that their taxes should not exceed 50% of the state tax. Texas ('07 ex. sess. ch.18) imposed a gross receipt tax on a large number of businesses and occupations; Louisiana imposed a license tax on dealers in firearms ('08 no.206) and on money lenders ('08 no.209). Mississippi altered her privilege taxes on some occupations ('08 ch.73) and extended them to others ('08 ch.74), including lumber dealers, opticians, cotton express companies, soda water dealers and moving picture shows. Georgia, which has had state prohibition since January 1, 1908, enacted a law ('08 p.1112) bearing the following significant title: "An act to provide revenue to be used for the development and conduct of the penitentiary system of the state and to buy farm lands and equipment as may be needed in connection with the management, control and employment of the convicts of this state, by requiring a license to be obtained of all persons, firms or corporations manufacturing or selling in this state or maintaining therein supply depots or places for distributing any imitation of or substitute for beer, ale, wine, whiskey or other spirituous or malt liquors . . ." Oklahoma ('08 ch.81 art.8) authorized towns and villages to levy and collect license taxes on certain occupations, and extended the powers of the initiative and referendum to any town or village where such license taxes were levied.

Texas in 1905 (ch.111) attempted to eliminate the abuses connected with the business of "salary loan sharks" by imposing an annual occupation tax of \$5000 on persons engaged in purchasing assignments of unearned wages. The second section of the act provided that the tax should not apply to persons procuring such assignments as security for loans to pay for necessities of life for the assignor's family, the purchase of a homestead for him, or for any article necessary for the assignor's pursuit of his employment etc. where the assignments were made directly to the person from whom the purchases were made, or where the assignments were not taken at a discount.

The question of the constitutionality of this act was brought before the Court of Criminal Appeals of Texas, on appeal (*Owens v. State* 112 S. W. 1075 [1908]). The court held the act to be unconstitutional, being in contravention of the article in the Texas Constitution requiring that all occupation taxes shall be equal and uniform upon the same class of subjects, and to be a violation of the 14th amendment of the federal Constitution. This decision is of

more than usual importance in view of the systematic efforts that are now being made in various parts of the country to regulate the salary loan business.

*b* **Various special taxes on corporations.** The period under review has been one prolific of laws concerning the taxation of corporations and more especially the taxation of public service corporations. About 120 acts were passed relative to the taxation of corporations, and of this number approximately half referred to the taxation of public service corporations, particularly railroads. The limits of this review will only permit brief reference to a few of these acts.

There seems to be a widespread opinion that public service corporations have not been shouldering a fair share of the taxes. And this opinion, whether well founded or not, has led to an increased taxation of such concerns in many states. Governor Comer of Alabama (Jan. 15, 1907) recommended that properties of railroads and other public service corporations "be assessed for taxation at a valuation in proportion to the value they give in for the purpose of fixing freight rates and charges on the people of the state." Governor Broward of Florida (April 2, 1907) and Governor Cummins of Iowa (Jan. 14, 1907) recommended taxes on corporation franchises; while the governors of Oregon (Jan. 16, 1907), Idaho (Jan. 8, 1907), Minnesota (Jan. 9, 1907), South Dakota (Jan. 8, 1907) and Washington (Jan. 4, 1907) recommended that larger corporation fees and taxes be imposed.

An important act was that of Alabama, taxing the franchises of public service corporations ('07 p.342). The act is drawn along the lines of the corporation tax law of Massachusetts. In the case of an intrastate corporation the value of the franchise is determined by adding together the market value of the corporation stocks and the amount of its entire indebtedness secured by a lien on its property, and deducting therefrom the assessed value of the tangible property. In the case of interstate corporations the value determined in this way is pro rated for taxation by the state according to the percentage of the mileage within the state to the company's total mileage, or according to the percentage of the receipts within the state to the company's total receipts. Wide discretionary power is, however, wisely given to the state tax commission as to the methods which it may employ to determine the value of franchises. The value so determined is taxed at the same rate as other property. The proceeds are apportioned to the various local units of government



according to the proportion of the state mileage existing in each locality or the proportion of the receipts obtained therein. Massachusetts ('07 ch.586) passed a similar law taxing express companies upon the fair cash value of such a proportion of their capital, bonds and unfunded debt (after making deductions for tangible property locally taxed and for certain securities owned) as their gross earnings within the state bear to their total gross earnings. The Iowa act of 1907 (ch.58), taxing express companies, was along essentially the same lines. The proportion of the business to be taxed by the state was determined by prorating the mileage of the company within the state to the total mileage covered by the company, care being taken to deduct the ocean mileage in computing the total. The failure of the Iowa act<sup>1</sup> and of the Michigan act<sup>2</sup> to provide for such a deduction of ocean mileage seriously interfered with the success of similar taxes in those two states.

A similar law was enacted by New Hampshire ('07 ch.81), taxing express companies.

The Massachusetts corporation tax law, which has served in many respects as a model for other states, was itself amended ('08 ch.614) by the proviso that *one half* (instead of all as formerly) "of such proportion of the tax collected of each of said corporations as corresponds to the proportion of its stock owned by persons residing in this commonwealth shall be distributed . . . and paid to the several cities and towns in which it appears that such persons resided on the preceding first day of May, according to the number of shares so held in such cities and towns respectively." The other half, the new act provides, shall be distributed to the cities and towns where the business of the corporation is conducted.

Governor Guild's criticism of the distribution of the proceeds of the Massachusetts corporation tax, made in his message of January 3, 1907, still applies to the tax as amended. He said: "The commonwealth has been steadily deprived of its legitimate revenue for the benefit of local purposes. The whole corporation tax, both in theory and precedent, belongs to the state. Nearly the whole is now returned to the cities and towns."

Utah ('07 ch.107) levied a license tax on corporations graduated according to the amount of authorized capital stock; and Oklahoma ('08 ch.71 art.2) imposed a tax on gross receipts of public

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<sup>1</sup> Cf. Message of Governor Cummins, Jan. 14, 1907.

<sup>2</sup> Cf. Message of Governor Warner, Jan. 3, 1907.



service corporations, in addition to the ad valorem tax which it levies upon corporate property.

Despite a number of laws recently passed (*cf.* Mississippi '08 ch.94) continuing the hopeless effort to tax corporations by the simple form of the general property tax, the laws cited above and others that might be mentioned afford hopeful signs of a more rational system of taxing corporations in the future.

*c* **Income tax.** The chief interest in the income tax of late has been in the movement favoring an amendment to the United States Constitution, authorizing the federal government to impose such a tax. The comparative failure of income tax laws in the states of the Union in which such laws have been enacted has prevented much recent legislation looking toward state income taxes. Three measures, however, adopted last year, are deserving of notice. The most important was the adoption in November 1908, of the amendment to the Constitution of Wisconsin providing that: "Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided."

The second income tax measure deserving of mention is the graduated income tax ('08 ch.81 art.10) of the state of Oklahoma. The tax is levied upon all incomes of individuals in excess of \$3500 per year "from salaries, fees, trade, profession and property upon which a gross receipt or excise tax has not been paid." The rate of the tax is graduated as follows:

On the excess over	\$3 500 and less than	\$5 000	5	mills
"	5 000	"	10 000	7½ "
"	10 000	"	20 000	12 "
"	20 000	"	50 000	15 "
"	50 000	"	100 000	20 "
"	100 000			33⅓ "

The proceeds of the tax are set aside for the benefit of the common school fund of the state.

State income taxes in the United States have heretofore failed principally because of the difficulty experienced by tax officials in discovering the incomes. The chief method provided in this Oklahoma statute for finding the incomes is the old one of requiring a sworn statement by the taxable. Authority is given to the State Auditor to summon witnesses from the county in which a person lives to bear testimony concerning his income, if he hands in no sworn statement of income or if his sworn statement appears to

understate his income. Unless the experience of Oklahoma is different from that of other states the tax will be extensively evaded.

Virginia ('08 ch.10) raised the exemption limit of her income tax from \$600 to \$1000.

*d Inheritance tax.* In sharp contrast with the small amount of legislation in recent years in the matter of income taxes is the large amount in the matter of state inheritance taxes. Oklahoma in passing her law of May 26, 1908 (ch.81 art.11) made the 39th state (including territories) in the Union, having an inheritance tax. It is significant that the existing inheritance tax laws in 32 of these states were enacted since the beginning of the year 1900, and in 21 since the beginning of 1905. Ten of the acts, as well as a considerable number of the amendments, were passed during the two years now under review.

Of these acts the ones most deserving of mention are those of the following states: Idaho ('07 p.558), Massachusetts ('07 ch.563), New York ('08 ch.310), Oklahoma ('08 ch.81 art.11), Texas ('07 ex. sess. ch.21) and Washington ('07 ch.217).

The Idaho inheritance tax act is in most respects a model law. The tax is graduated according to remoteness of relationship of the person receiving the property to the decedent, the "primary rate" being 1% on property going to husband, wife, lineal issue, lineal ancestor or adopted child, and rising according to remoteness of relationship until it reaches 5% on property going to remote relatives or strangers in blood. These primary rates apply to inheritances of \$25,000 or under. The act provides that the rate of tax upon amounts in excess of \$25,000 shall be as follows: (1) upon all in excess of \$25,000 and up to \$50,000 one and one half times the primary rates; (2) upon all in excess of \$50,000 and up to \$100,000, two times the primary rates; (3) upon all in excess of \$100,000 and up to \$500,000, two and one half times the primary rates; (4) upon all in excess of \$500,000 three times the primary rates. There are liberal exemptions for property going to charitable and benevolent institutions, and there are liberal exemption limits graduated according to the degree of relationship of the beneficiary to the decedent. The largest exemption is of \$10,000 on property transferred to the widow or minor child of the decedent, and from this amount the exemption limit declines until it is only \$500 on property going to strangers in blood.

The principal criticism which can be brought against the act is



one which applies to practically all inheritance tax laws in the United States. It is that no provision is made for interstate comity in the assessment of the tax in cases where there is a conflict of state jurisdictions. The Idaho law taxes "all property which shall pass, by will or by the intestate laws of this state, from any person who may die seized or possessed of the same while a resident of this state, or if such decedent was not a resident of this state at the time of death, which property, or any part thereof, shall be within this state" etc. Obviously if two states had laws like the Idaho law and if the residence of a decedent were in one state and the property in the other a transfer by will might be taxed in both states. This is a matter of considerable consequence in the case of a tax like the inheritance tax, where the tax rates often amount to high figures.

The Massachusetts inheritance tax law ('07 ch.563) divides the beneficiaries of taxable inheritances into three classes: Class A comprises "the husband, wife, lineal ancestor, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter, of a decedent." Class B comprises "the brother, sister, nephew or niece of a decedent." The third class is "the all other class." Provision is made exempting from taxation inheritances passing to certain classes of beneficiaries such as charitable and benevolent institutions. The tax rate on the "all other class" is a flat rate of 5%; the rate on class A varies from 1% (on inheritances not exceeding \$50,000) to 2% (on inheritances exceeding \$100,000); the rate on class B varies from 3% (on inheritances not exceeding \$25,000) to 5% (on inheritances exceeding \$100,000). The higher rates for progressively larger amounts going to classes A and B apply to the entire inheritance in Massachusetts, whereas in Idaho each rate applies only to that part of the amount falling within the limits for which the rate is specifically fixed. (*See* p. 306) The Idaho plan appears to be the more equitable. It seems unjust, to take an extreme example, that under the Massachusetts law an estate passing to a brother should pay 3% if it amounts to \$25,000, and 4% (on the *entire amount*) if it amounts to \$25,001.

The Massachusetts act, on the other hand, is distinctly superior to the Idaho act in the important respect that it contains reasonable provisions for interstate comity. The tax applies (§1) to "property within the jurisdiction of the commonwealth, corporeal or in-



corporeal, and any interest therein, whether belonging to inhabitants of the commonwealth or not. "Section 3 provides that: Property of a resident of the commonwealth which is not therein at the time of his death shall not be taxable . . . if legally subject in another state or country to a tax of like character and amount . . . and if such tax be actually paid or guaranteed; if legally subject in another state or country to a tax of like character but of less amount . . . and such tax be actually paid or guaranteed . . . such property shall be taxable under this act to the extent of the difference between the tax thus actually paid, guaranteed or secured, and the amount for which such property would otherwise be liable hereunder. Property of a nonresident decedent which is within the jurisdiction of the commonwealth at the time of his death, if subject to a tax of like character with that imposed by this act by the law of the state or country of his residence, shall be subject only to such portion of the tax hereby imposed as may be in excess of such tax imposed by the laws of such state or country; *provided*, that a like exemption is made by the laws of such other state or country in favor of estates of citizens of this commonwealth, but no such exemption shall be allowed until such tax provided for by the law of such other state or country shall be actually paid, guaranteed, or secured . . ." This provision is quoted at some length because it is believed to be one of the most important steps taken in recent tax legislation toward a greater interstate comity in tax affairs.

The act of 1907 (ch.217), amending the Washington inheritance tax law, is noteworthy in that it imposes the exceptionally high and discriminating rate of 25% "on all sums passing to or for the benefit of collateral relations or strangers of the blood, who are aliens not residing in the United States." The maximum rate on inheritances passing to persons residing within the United States is 12%, and that applies only to sums of over \$100,000 going to collateral relatives beyond the third degree or to strangers.

#### IV Separation of state and local revenue

In two states, California and Missouri, amendments to the Constitutions were submitted, calling for the separation of state and local taxation, and in both states the amendments were rejected by popular vote (Cal. '07 p.1353; Mo. '07 p.460).

### Summary

The preceding review of recent tax legislation seems to justify the following conclusions: There is discernible a tendency toward a more careful study of tax problems on the part of state governments, which is finding expression in the creation of many state tax commissions with broad powers, both as to investigation and administration. The crude general property tax as a state tax is very slowly yielding to more effective forms of state taxation; and the procedure of taxing securities by taxing at their source the dividends which they yield is becoming more common. There is a tendency to increase the taxation of public service corporations; and the taxation of the corporate excess, computed by methods similar to those of the Massachusetts corporation tax law, seems to be growing in favor. The popularity of state inheritance taxes has continued to increase. Not much progress appears to have been made in the movement for separation of state and local taxation. There is discernible the beginnings of a hopeful movement for a greater amount of interstate comity in taxation.





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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zf

INSURANCE

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Few branches of industry were characterized during the years 1907 and 1908 by such a mass of new legislation as the insurance business. During these two years the Legislatures of 42 states passed 400 acts covering a great multitude of subjects and distributed as follows: Wisconsin 35; Minnesota 32; Michigan 24; Massachusetts 22; Tennessee 21; North Dakota 19; Illinois and Nebraska 16 each; Iowa and New York 15; Ohio and Louisiana 13; Montana, Missouri, New Jersey and North Carolina 11 each; California 10; and as regards the remaining 25 states, from four to nine acts each. Of these 400 acts, 333 were passed in the year 1907 and 67 in 1908. It is of interest to note that of these 400 acts, 317 or nearly 80% of the total number were passed by the Western and Southern States and that only 83 were enacted by the New England and Middle Atlantic States.

To review all these acts in detail would be impossible in a paper of this kind, especially since many of the laws relate to slight changes in fees, salaries, duties of officers, etc. An attempt will therefore be made to trace only the most important legislation. It may be stated at the outset, however, that an unusually large number of laws deal with certain special subjects. In numerous instances from 10 to 15 states saw fit to legislate in a single year upon some phase of the life insurance business. For an explanation of so general a movement, we may look to the interest and impetus created by the life insurance investigation of the New York Legislature in 1906.

**General insurance laws**

Montana in the year 1907 (ch.171) passed a General Insurance Law regulating the business of life insurance and covering, among other things, the method of incorporating companies, the amount of their capital stock, the investment of their funds, the deposit of securities, the valuation of policies, the regulation of expen-

•ditures and real estate holdings, the examination of the companies by the Insurance Commissioner, etc. West Virginia ('07 ch.77), New Jersey ('07 ch.73), California ('07 ch.119) and Colorado ('07 ch.193) also enacted a complete code of insurance laws covering all forms of insurance and prescribing, in addition to the rules mentioned above, the duties of the Insurance Commissioner and the licensing of agents. Massachusetts ('07 ch.576) likewise adopted an act "to codify, revise and amend the laws relative to insurance, other than fraternal and assessment insurance." While impossible here to outline the numerous provisions of these voluminous general acts, it may be said that nearly all have incorporated those features of insurance which, as this article will show later, have been made the subject for legislation by an unusually large number of states.

In this connection there should also be mentioned the laws of Washington ('07 ch.109), South Carolina ('08 no.434) and North Carolina ('07 ch.868) creating the office of Insurance Commissioner and providing for the election of the commissioner. In Washington and North Carolina the Insurance Commissioner is to be elected at the same time and in the same manner as other elective state officials; whereas in South Carolina, he is to be elected by the General Assembly for a term of two years. Reference should also be made to the many general acts,<sup>1</sup> which provide for the incorporation, management and regulation of various classes of mutual fire insurance companies.

### Laws pertaining to life insurance

**Applications in life insurance. Misrepresentations in securing such insurance.** No phase of the insurance business was made the subject of so much legislation during 1907 and 1908 as the application for life insurance. No fewer than 24 acts were adopted by 16 states on this subject. Aside from minor differences these various acts may be conveniently summarized under the following groups:

1 In Maine ('07 ch.30) every policy of insurance issued to a resident of the state by any insurance company other than a domestic company, which contains a reference to the application of the insured, must have attached thereto a correct copy of the application. In case the application is not attached to the policy it shall not be

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<sup>1</sup> Mass. '07 ch.576; Neb. '07 ch.71; Wash. '07 ch.254; Wis. '07 ch.555 N. Y. '07 ch.503; Cal. '07 ch.513; Ill. '07 p.353; Mich. '07 no.176; La. '08 no.169; W. Va. '08 ch.32; Tenn. '07 ch.439, 461, 462.

considered a part thereof and can not be received in evidence. Each policy also must have a slip attached in large type, stating that under the laws of Maine each applicant for a policy of insurance is entitled to be furnished with a copy of the application, attached to the policy. Wisconsin, also, ('07 ch.127) entitles every policy holder to be furnished with a copy of the application upon request.

2 Eight states<sup>1</sup> passed laws requiring that every policy of insurance issued or delivered within the state, by any life insurance company doing business in the state must contain the entire contract between the parties. In Tennessee, however, an exception is made in favor of fraternal beneficiary associations and mutual insurance companies.

3 Warranties are not permitted by the laws of two states, Kansas ('07 ch.226) and Arizona ('07 ch.46). Thus, in Kansas, no misrepresentation in obtaining the insurance shall be deemed material, and render the policy void, unless the misrepresentation actually contributed to the event on which the policy is to become due and payable.

4 Eleven states<sup>2</sup> aim to protect the life insurance policy holder against the misrepresentation of those interested in soliciting the same. "No life insurance company," it is stated, "doing business in this state and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort, misrepresenting the terms of any policy issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title to any policy or class of policies, misrepresenting the true nature thereof."

**Standard life insurance policies.** There seems to be a distinct tendency among the states to prescribe by statute the standard form of life insurance policies which companies shall be allowed to issue. The laws provide that "no policy of life insurance shall be issued or delivered in this state, and no policy of a life insurance company organized under the laws of this state, shall be issued, unless authorized by the provisions of this act."

Ohio ('08 p.139), North Dakota ('07 ch.140) and Minnesota

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<sup>1</sup> Ill. '07 p.367; Mich. '07 no.180; Minn. '07 ch.44; Mon. '07 ch.39; N. H. '07 ch.110; N. D. '07 ch.155; Del. '07 ch.106; Tenn. '07 ch.441.

<sup>2</sup> Del. '07 ch.105; Ill. '07 p.366; Ia. '07 ch.85; Mich. '07 no.185; Mon. '07 ch.31; N. D. '07 ch.147; Tenn. '07 ch.455; Wis. '07 ch.126; S. C. '08 no.509; O. '08 p.175, 177; Mo. '07 p.317.



('07 ch.220) enacted standard policy forms, similar in all respects, as regards the following forms of insurance: "ordinary life policies," "limited payment policies," "endowment policies," "ordinary or limited payment life fixed survivorship annuities," "endowment fixed survivorship annuities," "term policies," and "term policies with the right to renew or change."

Tennessee ('07 ch.457) and Michigan ('07 no.187) do not prescribe the exact wording of the policies to be used, but specify the nature of the various provisions which shall be incorporated. These specifications include the following: (1) one month's grace; (2) the policy shall constitute the entire contract between the parties; (3) the policy shall be incontestable after two years from date; (4) all statements to be deemed representations and not warranties; (5) the amount payable to be adjusted according to the proper age in case the age has been misstated; and (6) apportionment of the surplus at regular intervals. These two laws also provide that no policy of life insurance shall be issued or delivered in the state until the form of the same has been filed with the Insurance Commissioner, and approved by him. New York ('07 ch.714) revised its Insurance Law relative to the power of the Superintendent of Insurance to authorize the use of additional forms of policies to be issued and delivered by domestic life insurance companies within the state; whereas North Carolina ('07 ch.879) stipulated that it shall be unlawful for any insurance company or association to issue or sell any policy for less than \$500, until the form has been submitted to and approved by the Insurance Commissioner of the state.

**Regulation of disbursements and salaries in life insurance companies.** Largely owing to the exposure of irregularities in life insurance companies during the New York investigation, a large number of states enacted laws which aim to regulate the disbursements of life insurance companies, and fix the salaries of employees. In seven<sup>1</sup> states all disbursements of \$100 or more must be evidenced by a voucher signed by or on behalf of the person or corporation which receives the money, correctly describing the consideration for the payment. If the money has been expended for services the voucher must explain these services. On the other hand if the expenditures relate to any matter pending before any Legislature or department of any state or government, the voucher must correctly describe the nature of the matter and the interest

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<sup>1</sup> Ind. '07 ch.168; Ia. '07 ch.84; Mich. '07 no.179; N. D. '07 ch.149; Tenn. '07 ch.439; W. Va. '07 ch.34; Wis. '07 ch.131.

of the company therein. When such voucher can not be obtained, the expenditure must be evidenced by an affidavit describing the character and object of the expenditure and stating the reason why such voucher can not be secured.

A number of states<sup>1</sup> regulate the salaries of officers, trustees or directors, by providing that all salaries, compensations or emoluments, amounting in any year to more than \$5000, must be authorized by a vote of the Board of Directors of such life insurance company. No agreement can be made by any company with any of its officers, trustees or salaried employees for any remuneration extending beyond one year, and no officer, director or trustee, who is paid a salary of more than \$100 per month can receive any other compensation. In all cases, however, these acts are not to be construed as preventing a life insurance company from entering into contracts with its agents for the payment of renewal commissions.

A number of states also seek to restrict the maximum salary which may be paid to officers of a life insurance company. Thus, in North Dakota ('07 ch.154) and Missouri ('07 p.315) no life insurance company which pays, as a salary or as compensation for services, more than \$50,000 per annum to one person, shall be authorized to transact business in the state. Wisconsin ('07 ch.621) enacted a law to the effect that no domestic life insurance company transacting a mutual or participating business shall expend in one year for any salary any sum in excess of \$25,000 unless a greater maximum is fixed by a majority vote of the policy holders, at any regular election of directors; whereas Missouri ('07 p.313), under heavy penalties, prohibits any officer, stockholder or employee of an insurance company from using or permitting to be used, any of the funds or securities of such company for private profit or gain. Lastly, the states of Tennessee ('07 ch.440) and North Dakota ('07 ch.154) prohibit any life insurance company from granting any pension to any officer, director or trustee, or to any member of his family after his death.

**Laws defining the status of persons soliciting insurance.** An unusually large number of acts passed in 1907 aim to make the solicitor of insurance policies the agent of the company. As many as 10 states<sup>2</sup> enacted the following provision: "Any person who

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<sup>1</sup> Mich. '07 no.259; Mo. '07 p.315; N. D. '07 ch.154.

<sup>2</sup> Del. '07 ch.108; Ind. '07 ch.67; Mich. '07 no.183; Minn. '07 ch.41; Mo. '07 p.317; Mon. '07 ch.30; N. H. '07 ch.109; N. C. '07 ch.958; N. D. '07 ch.146; W. Va. '07 ch.53; O. '08 p.175.



shall solicit an application for insurance upon the life of another shall, in case of controversy between the assured and his beneficiary, and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured."

A number of other states passed laws along the same line but differing from the above act in essential particulars. Wisconsin provides ('07 ch.599) that no corporation or stock company shall be licensed as the agent or representative of any life insurance company or association, in soliciting or selling life insurance policies in the state. Tennessee ('07 ch.442) makes the solicitor of any form of insurance the agent of the company issuing the policy, and not the agent of the insured, for all matters relating to the application and the policy issued in consequence thereof. Furthermore ('07 ch.444) no corporation or stock company shall be licensed to act as representative for a life insurance company. Vermont ('06 no.130) stipulates that a fire or casualty company shall not authorize any person, agent, firm or corporation who is not a resident to issue any policy of insurance on property located in the state.

In Kansas the business of fire insurance brokerage is regulated by an act of 1907 ('07 ch.224). Any person, firm or corporation, who aids in negotiating insurance contracts for persons or corporations other than himself, in unauthorized companies is declared by law to be an insurance broker. Such broker is required to keep a separate record book in his office showing the transactions of fire insurance placed in unauthorized companies, the amount of the gross premium charged, and the name of the company in which the insurance was placed, the date, term, and number of the policy, the situation of the property insured and the name of the assured. This account must be open at all times to the inspection of the State Superintendent of Insurance.

**Rebating and discriminations in life insurance.** Few phases of the life insurance business received so much attention from the Legislatures during the two years under consideration as rebating and discriminations in life insurance, since 17 states passed laws prohibiting the same.<sup>1</sup> Practically all these states enacted a clause

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<sup>1</sup> Ct. '07 ch.193; Ark. '07 no.321; Me. '07 ch.121; Mich. '07 no.181; Minn. '07 ch.277; Mo. '07 p.316; Mon. '07 ch.73; N. H. '07 ch. 111; N. Y. '07 ch.729, 741; N. D. '07 ch.148; Tenn. '07 ch.456; Wis. '07 ch.504; Wy. '07 ch.38; N. J. '07 ch.74; La. '08 no.198, 210; Mass. '08 ch.511; O. '08 p.183.



to the effect that "no life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insurants of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy, nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special feature or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance."

In view of the recent incorporation of stock life insurance companies in many states, and the practice of issuing stock in conjunction with the sale of life insurance policies, many of these states have also sought to regulate this matter. The law of Michigan ('07 no.181) covers this phase in substantially the form in which it is found in all of the other laws: namely, "no officer, agent, solicitor or representative of the company shall give, sell or purchase or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon or anything of value whatsoever not specified in the policy."

The laws, however, differ considerably in the penalties which they mete out to the violators of the above prohibitions. Thus in Michigan the punishment consists of a fine of not less than \$50 and not exceeding \$500 or imprisonment not exceeding one year or both fine and imprisonment in the discretion of the court. Other states, such as Minnesota, simply declare that a violation shall be deemed a misdemeanor and punishment meted out accordingly. Still other states, such as Missouri, New Hampshire and Wisconsin, provide that any life insurance company which will permit such violations shall have its certificate of authority to transact business in the state revoked by the Superintendent of Insurance and shall,

during a period varying from three to five years, be barred from transacting business in the state.

**Election of directors and trustees of mutual life insurance companies.** Three important acts were passed during the year 1907, which seek to protect the interests of policy holders in mutual companies so far as the election of directors and trustees is concerned. The first of these laws, Wisconsin ('07 ch.667) resembles in some respects the New York law of 1906. It provides that, at every general election of directors or trustees in any domestic mutual life insurance company, every policy holder whose insurance shall have been in force for at least one year prior to the election, shall be entitled to one vote without other qualification. Every policy holder thus entitled to vote shall have the same number of votes irrespective of the number of policies or amount of insurance he may hold. The policy holder shall have one vote for every director to be elected, or if he chooses may cast all of his votes for one candidate, or distribute them among the number. Unless the policy has been assigned more than six months prior to the election, by an absolute assignment to an assignee other than the company which has issued the policy, the person upon whose application the policy has been issued shall be deemed to be the policy holder entitled to vote. At each election not less than one fourth of the total number of directors provided for in the charter or articles of incorporation shall be elected, and no appointment of a director to fill a vacancy shall extend beyond the next general election.

Upon written request the company shall within 30 days after the nominations have been made, furnish the policy holders at its own expense a full and complete list of the names and last known postoffice addresses of all policy holders whose policies were in force 12 months prior to the date fixed for the election, which list must be made out separately for each state and country, and must be classified by postoffice addresses and arranged alphabetically by name. This list, however, must be returned to the home office of the company within 10 days after such election. The act also explains at great length the manner in which directors shall be nominated, the form of the ballot and the instructions which must be sent to the policy holder; and also provides that the trustees or directors of every domestic mutual life insurance company must hold meetings at least once each quarter upon such dates as are designated in its charter or articles of incorporation and that



any trustee who shall absent himself from three consecutive meetings shall forfeit his office and be ineligible to reelection for at least six months.

The state of Iowa enacted a law providing for proportionate representation to minority stockholders of insurance companies ('07 ch.74). The holders of not less than one fifth but less than a majority of the shares of the capital stock of life and fire insurance companies are empowered to nominate directors or other persons performing the functions of directors, and in case such nomination is made, "there shall be elected or appointed to the extent that the total number to be elected or appointed is divisible, such proportionate number from the persons so nominated as the shares of stock held by persons making such nominations bear to the whole number of shares issued; provided the holder or holders of the minority shares of the stock shall only be entitled to one fifth (disregarding fractions) of the total number of directors to be elected for each one fifth of the entire capital stock of such corporation held by them; and provided further that this act shall not be construed to prevent the holders of a majority of the stock of such corporation from electing the majority of its directors. Vacancies occurring from time to time shall be filled so as to preserve and secure to such minority and majority stockholders proportionate representation, as above provided." It is further decreed that all existing corporations shall by amendment to the articles of incorporation provide for the nomination, or election, or appointment, of directors in conformity with the provisions of this act, and the articles of incorporation of all companies hereafter organized must contain similar provisions.

In another act ('07 ch.77) the state of Iowa carefully defines the nature of the proxy to be used at elections, providing that no proxies shall be filed unless signed and executed within two months prior to such meeting of election for which such proxies were given. The proxy is also limited to 30 days subsequent to such meeting or election and may be revoked at any time by the policy holder or stock holder who executed the same. All proxies must be filed with the company at least one day prior to the election at which they are to be used. The solicitation of proxies by any agent of the company, either for his personal use, or for the use of the officers of the company, is forbidden. Nor shall any of the funds of the company be expended in the securing of such proxies.



**Life insurance investments.** As usual, a large amount of legislation was enacted relative to the investments which life insurance companies may make, 11 states<sup>1</sup> having passed such laws. In nearly all instances these acts were in the form of amendments to previous laws and need not be outlined in detail. In the case, however, of Delaware ('07 ch.110), Minnesota ('07 ch.163) and New York ('07 ch.239) a new tendency in life insurance investments is apparent. The departure consists in the first place in prohibiting life insurance companies from investing in or loaning upon any shares of stock of any corporation other than a municipal corporation, and also in prohibiting a company from investing or loaning upon any bonds or obligations which are secured to more than one third of the total value by stock collateral. Every company possessed of such stocks or securities is ordered to dispose of the same within five years, unless the time is extended by the Commissioner of Insurance.

Secondly, life insurance companies are forbidden to subscribe or participate in any underwriting of the purchase or sale of securities or property, or to enter into any transaction for such purchase or sale jointly with any other person, firm or corporation. Nor is any company allowed to enter into any agreement to withhold from sale any of its property; but the disposal of all property must at all times be within the control of its board of directors.

Lastly, the laws carefully outline the various classes of real estate which a life insurance company may hold, providing at the same time that all real estate which shall not be necessary for its accommodation in the convenient transaction of its business must be sold or disposed of within two years after the company shall have acquired title to the same, unless the Commissioner of Insurance shall decide to extend the time.

Despite the fact that life insurance funds are trust funds, the New York legislative investigation showed that many of the abuses in the investment of insurance funds were due to the freedom with which the companies invested in stocks and real estate, or participated in underwriting syndicates. It was shown that the companies frequently entered financial transactions with the idea of gaining an immediate profit, rather than making a permanent investment; and while the companies showed a profit on the average,

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<sup>1</sup> Del. '07 ch.110; Cal. '07 ch.487; Ga. '07 p.56; Ia. '07 ch.88; Mich. '07 no.184; Minn. '07 ch.163; N. C. '07 ch.798; N. D. '07 ch.156; Tenn. '07 ch.458; Tex. '07 ch.170; N. Y. '08 ch.9.

as a result of such transactions, the investigating committee felt that trust funds should not be exposed to the dangers of such practices. It was in view of this idea that the above legislation was enacted.

Two other acts deserve special mention. North Carolina ('07 ch.798) authorizes a life insurance company to invest all of its assets in excess of \$100,000 of its capital stock, in such securities or in such safe manner as the insurance commissioner may provide. Texas ('07 ch.170) requires all stock or mutual companies, if they desire to do a life insurance business in Texas, to invest and keep invested in Texas securities and Texas real estate a sum of money equal to at least 75% of the aggregate amount of the legal reserve set apart and apportioned to policies of life insurance written on the lives of citizens of the state. In case, however, the company can satisfy the Commissioner of Insurance that it can not safely invest that portion of its reserve in Texas securities or property, he may authorize the company to invest the same in bonds of the United States or of any state.

**Apportionment of surplus and dividends.** Probably in view of the revelations which grew out of the New York life insurance investigation, a large number of states enacted laws regulating the apportionment and distribution of dividends to the holders of life insurance policies. No less than 12 states passed 21 acts upon this subject. For the sake of brevity these laws may be grouped as follows:

1 Four states<sup>1</sup> provide that after 1907 no domestic mutual life insurance company issuing participating policies shall issue any policies, except annuities, which do not, by their terms, give to the holders full right to participate in the accumulations of such company, as provided by the law of the state.

2 Five states<sup>2</sup> seek to regulate the apportionment of surplus on deferred dividend policies in the following manner: "Every life insurance company doing business in this state, conducted on the mutual plan, or in which policy holders are entitled to share in the profits or surplus, shall on all policies of life insurance heretofore issued, under the conditions of which the distribution of surplus is deferred to a fixed or specified time, and contingent upon the policy being in force and the insured living at that time, annually ascertain

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<sup>1</sup> Wis. '07 ch.146; Minn. '07 ch.161; N. D. '07 ch.145; W. Va. '07 ch.33.

<sup>2</sup> Minn. '07 ch.201; N. J. '07 ch.71; N. D. '07 ch.151; S. D. '07 ch.168; Wis. '07 ch.658.



the amount of surplus to which all such policies, as a separate class, are entitled, and shall annually apportion to such policies as a class, the amount of surplus so ascertained and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies, on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose whatever, other than for the express purpose for which the same was accumulated."

3 Six states<sup>1</sup> provide for the periodic apportionment of the surplus. All provide for annual apportionment except Maryland and Tennessee, in which the apportionment is to take place every fifth year.

4 Three states, Montana ('07 ch.79), North Dakota ('07 ch.142) and West Virginia ('07 ch.67), specify in their laws that any life insurance company doing business in the state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders, a contingency reserve. This reserve is modeled after the contingency reserve law enacted by the state of New York in 1906. Although the laws vary in their requirements, the contingency reserve in all cases is based upon certain percentages of the net value of the policies.

Thus, according to the Montana law, when the net value of the policies written by a company is less than \$100,000, 20% thereof, or the sum of \$10,000, whichever is the greater, may be maintained as a contingency reserve. When the net value is greater than \$100,000, the contingency reserve decreases one half of one per cent for each \$100,000 of the net value, up to \$1,000,000. Thereafter the contingency reserve which a company may keep on hand out of its surplus continues to decrease until it amounts to 5% in case the net value of all policies exceeds \$75,000,000. This law, however, does not apply to any company which does business exclusively upon the nonparticipating plan.

5 Among the remaining laws dealing with life insurance surplus and dividends may be mentioned those of Ohio ('08 p.176, 181). These laws provide that every life insurance company doing business in the state and issuing policies on both the participating and nonparticipating plan, must file with the Superintendent of Insurance separate annual statements of profits and losses, with reference

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<sup>1</sup> Mon. '07 ch.79; S. D. '07 ch.168; Md. '08 ch.396, p.66; Tenn. '07 ch.454; W. Va. '07 ch.67; Wis. '07 ch. 636.



to each of these kinds of insurance. Furthermore, the managers of all companies are directed not to pay any dividends or bonuses to stockholders, except from the surplus funds, after setting aside an amount equal to the reserve on all outstanding risks, calculated according to the American experience table, with interest at 4%.

**Annual reports of life insurance companies.** Another noticeable feature, in reviewing the life insurance legislation of 1907 and 1908, is the emphasis which many states place upon the necessity of securing detailed annual reports from the companies doing business within their boundaries. Eight states<sup>1</sup> passed general acts prescribing with great minuteness the form of annual reports of companies, covering practically every phase of the business. It will be impossible to outline in detail the many and varied conditions prescribed in these laws. Suffice it to say that the laws are especially explicit about the giving of information relative to the real estate, security investments and other funds owned by the companies. The prescribed form, as compared with earlier reports, show a strong tendency toward increasing the number of items on which information must be given. This desire for more elaborate information by the various insurance commissioners is probably traceable to the exposures made in the recent New York legislative investigation of life insurance companies, which clearly showed that as regards the management of real estate investments and other funds, an astonishing amount of looseness and carelessness prevailed.

**Assessment life insurance.** Three acts passed in 1907, relative to assessment life insurance, deserve special mention, namely, those of Iowa ('07 ch.83), Wisconsin ('07 ch.447) and Minnesota ('07 ch.318). The Iowa and Wisconsin acts seek to place assessment life insurance upon a safer basis, by forbidding all such societies, other than fraternal beneficiary associations, from transacting any business in the state, unless they shall value their assessment policies or certificates of membership as yearly renewable term policies, according to the standard of valuation of life insurance policies prescribed by the laws of the state.

The act of Minnesota provides for the incorporation of such assessment societies. At least 250 persons, eligible to membership, must have made individual applications, and there must be paid into

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<sup>1</sup> O. '08 p.182; Wis. '07 ch.597, 657; N. D. '07 ch.141; Neb. '07 ch.23; Minn. '07 ch.243; Wy. '07 ch.98; Mon. '07 ch.72; Del. '07 ch.103.

the treasury at least \$5000 before business can be commenced. All such corporations, except fraternal beneficiary societies, must set aside 10% of the gross premium receipts or assessments each year as a reserve, until the same shall have accumulated to the amount of \$25,000, which fund must be deposited with the Insurance Commissioner of the state. No policy may be issued which does not provide for the payment of a fixed minimum sum, which sum may be increased each year the insurance remains in force, in the amount provided for in the policy. All agreements or bylaws providing for the payment of a smaller sum than the minimum specified in the contract shall be void. Moreover, no such association shall expend, for the conduct of its business and the solicitation of members, more than the first year's premium, or assessment income, on policies issued during that year, and 35% of its premium and assessment income from policies or certificates which have been in force for one year or more.

**Fraternal life insurance.** During the year 1907 only two states saw fit to place the issuance of fraternal life insurance policies upon a mathematical basis, although agitation to this effect has been prevalent for many years. The state of Iowa ('07 ch.86) makes it necessary for all fraternal beneficiary societies not yet admitted to the state, to show, before they are permitted to transact business within the state, that the mortuary assessment rates provided for in whatever plan of insurance they have adopted, are not lower than is indicated as necessary by the National Fraternal Congress mortality table. Wisconsin ('07 ch.511) passed a similar law making it necessary for fraternal societies which desire to be admitted to the state, to base their rates upon the National Fraternal Congress mortality table and upon an interest assumption of 4%.

A great many other states passed or adopted laws of one kind or another<sup>1</sup> relative to fraternal associations, but with the exception of the law of Iowa ('07 ch.87), which regulates real estate investments of such associations, and the law of Massachusetts ('07 ch.472), which governs the employment of solicitors by such societies, all of these laws are general in character and confine themselves to defining fraternal beneficiary associations and regulating their organization and management.

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<sup>1</sup> Ill. '07 p.355, 356, 357; Ind. '07 ch.221; Me '07 ch.29; Mich. '07 no.175, 186, 318; Minn. '07 ch.345, 382; Neb. '07 ch.30, 31, 169; N. J. '07 ch.188; N. C. '07 ch.936; Mass. '08 ch.463.



### Laws pertaining to fire insurance

**Standard fire policy.** In accordance with the general and wholesome movement toward the adoption of standard fire insurance policies in the various states, Oregon ('07 ch.137) and Iowa ('07 ch.76) adopted a uniform policy of fire insurance to be issued by all insurance companies taking fire risks on property within the state. With slight exceptions the statutory policies in both states are modeled closely upon the so called New York standard fire policy. It is stipulated, however, that any company may add such other conditions and provisions as are not in conflict with the law or contrary to public policy; but when this is done, the added portion shall be printed in type double the size and different in color from the type used in printing the remainder of the policy.

Two other states passed laws altering the standard form of fire insurance policy as it existed in the state. South Dakota ('07 ch.170) amended the standard form of contract to read, "In the case of any company incorporated under the laws of South Dakota as a mutual insurance company or association having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulations and its bylaws shall apply to, and form a part of the policy, providing the same are indorsed in or attached to such policies or contracts of insurance so as to form a part thereof." Wisconsin, on the other hand, ('07 ch.525) amends its standard form of policy so as to make the company liable for any direct loss or damage caused by lightning, meaning thereby the commonly accepted use of the term "lightning;" but excluding all loss or damage done by cyclone, tornado or wind storm. It should be noted that in nearly all other states companies will assume liability for loss by lightning only when the same has been indorsed upon the policy in the form of a special agreement.

**Valued policy and anti-coinsurance laws.** Although it is a universally recognized principle among those conversant with insurance theory that a fire insurance company should never be obliged to pay more than the value of the property at the time of the fire, it is a regrettable fact that a large number of states have seen fit, in the past, to make the company liable for the face value of the policy in case of a total loss. Such so called "valued policy laws" have proved exceedingly expensive to the policy holders of the states which have enacted the same, and are sure greatly to increase the moral hazard.



Despite the almost universal condemnation of such laws by authorities on fire insurance, it is to be deplored that two states, Minnesota ('07 ch.446) and North Dakota ('07 ch.158) have seen fit to introduce such laws.

The Minnesota law is to the effect that every company insuring any building against loss shall cause the same to be previously examined and to have its insurable value determined. In the absence of any increase in the risk without the consent of the insurer, in which the burden of proof shall be upon the company, and in the absence of intentional fraud upon the part of the insured, the company shall be liable upon the whole amount mentioned in the policy in case of total loss. The North Dakota act similarly provides that in case insured realty is totally destroyed without fraud on the part of the insured, or his assigns, the face value of the policy shall "be taken conclusively to be the true value of the realty insured."

Although coinsurance is recognized everywhere in the fire insurance business as an absolutely necessary principle, in order to secure justice between property owners by paying them their losses in the proportion that they are willing to pay premiums, it is a regrettable fact that several states have passed laws, either prohibiting or limiting its application.

Louisiana in an act of 1908 ('08 ch.187) prohibits the use of the coinsurance clause in the following words: "no insurance policy hereafter issued by any insurance company authorized to do business in this state shall contain any clause or provision requiring the insured to take out or maintain a larger amount of insurance than that covered by such policy, nor in any way providing that the insurer shall be liable as coinsurer with the company issuing the policy for any part of the loss or damage which may be occasioned by fire, lightning or windstorm, to the property located in this state, covered by such policy, nor making provisions for a reduction of such loss or damage by reason of failure of the assured to take out and maintain other insurance upon said property." The act goes on to say that all clauses and provisions in such insurance policies which may be issued in the future, shall be *ab initio* void and of no effect, unless the policy is issued upon personal or movable property.

In Minnesota ('07 ch.446) the coinsurance clause is permitted if the entire risk covered by the policy amounts to more than \$20,000, if a reduction in the rate of premium is made by the company, and if the insured requests the same in writing, of which fact such writing shall be the only evidence. In case of loss the actual cash value of

the property, at the time of the loss, is to be made the basis for determining the proper amount of such coinsurance, notwithstanding any previous valuation which may have been made. Michigan ('07 no.307) expressly permits the use of the coinsurance clause but specifies the form in which application for such a clause shall be made by the insured.

**Surplus and dividends of fire insurance companies.** In three states laws were passed relative to the surplus and dividends of fire insurance companies. Since these laws differ materially from one another the contents of each will be summarized as follows:

1 In Massachusetts ('08 ch.482) the directors of mutual fire insurance companies are authorized to fix and determine the percentages of dividend to be paid on expiring policies. These percentages may, at the discretion of the directors, be different for policies insuring farm properties from those covering other classes of risks of the same term; but every policy placed in the class of farm risks must bear an indorsement to the effect that it is so classified.

2 New Jersey ('08 ch.258) provides that any fire insurance company having a net surplus of more than the amount of its capital stock may with the consent of the Commissioner of Banking and Insurance set aside a part or the whole of this net surplus, not, however, exceeding in amount \$500,000, as a special reserve fund, which in case of any extraordinary conflagration shall not be liable for any claims for loss by its policy holders arising out of such conflagration. This reserve fund, together with the unearned premiums, is to be held by the company for the protection of its other policy holders, but in case the losses sustained by conflagration shall exceed the general net surplus this special reserve fund shall be applied to make up any impairment of the capital of the company.

3 In Wisconsin ('07 ch.555) provision is made that all of the surplus of any domestic mutual fire insurance company in excess of 2% of the total amount of its outstanding fire risks shall be distributed annually pro rata among the members of said company within 60 days after the holding of its annual meeting, provided such total surplus equals or exceeds 3% of the amount of outstanding risks.

**Fire prevention.** Comparatively little activity was shown in 1907 and 1908 by the several state Legislatures in restricting the enormous fire waste which occurs annually, although this phase



of fire insurance is receiving greater and greater attention from fire underwriters. Minnesota ('07 ch.451), South Dakota ('07 ch.167), Tennessee ('07 ch.460) and Wisconsin ('07 ch.228) passed acts providing for the appointment of fire marshals and the regulation of their duties. In all cases, however, the chief duty of the fire marshal is confined to the investigation of fires with a view to ascertaining whether the loss was the result of carelessness or design. The state of Washington ('07 ch.179) authorizes cities of the first class to lay salt water mains for the protection of property against fire, and North Carolina ('07 ch.471) empowers the Corporation Commissioner to adopt and promulgate rules for the proper shipment of inflammable and explosive articles.

In only one state, Kansas ('08 ex. sess. ch.34) was any legislation passed seeking to regulate the construction of buildings. According to this act the city council, in cities of the second class, may regulate the construction of property, and order the suppression of fire places, boilers, or any other apparatus used in any building, manufactory, or business, which may be dangerous in causing or promoting fires, and may prescribe limits within which no dangerous or obnoxious business may be conducted.

### Laws pertaining to miscellaneous forms of insurance

**Accident and sickness insurance.** In this field of insurance a great deal of legislation was enacted in 1907, but nearly all the laws are of relative unimportance, since they merely pertain to the revision of fees, taxes and the like. Two laws, however, are worthy of special mention, namely, the law of Nebraska ('07 ch.45), which authorizes the incorporation of accident and sickness companies, and provides for their regulation, management and control; and the law of North Dakota ('07 ch.157), which authorizes the establishment of such companies doing business upon the assessment plan.

The Nebraska act declares, among many other things, that no company shall be authorized to transact business unless it has an authorized capital stock of \$100,000, and until 10% of this stock has been subscribed and paid for in cash. At all times the company must keep on deposit with the Auditor of Public Accounts, as a reserve, either in cash or in bonds of the state or of the United States, or other approved securities, a sum equal to 25% of the gross premiums collected, provided, however, that at no time shall such



a company be compelled to keep on deposit more than the sum of \$100,000.

The North Dakota act, besides providing for the organization and management of assessment accident and sickness insurance companies, stipulates that no policy shall be issued to any person under the age of 15 years or over the age of 65 years, and that the policy holder shall have the right, at any time, with the consent of the association or society, to designate a different beneficiary, without requiring the consent of such beneficiary. Both the Nebraska and North Dakota laws provide for very full annual reports.

**Corporate suretyship.** During the year 1907, seven states passed laws relative to bonding and surety companies, but only one state, Washington ('07 ch.202), passed a general act providing for the organization and regulation of such companies. This act provides that such companies shall be incorporated as are other corporations organized for profit, except that the capital stock must be not less than \$250,000 and that no business may be transacted until this entire amount has been subscribed for, and at least 20% paid in. The subscribers to the capital stock must also execute a subscription agreement by which they undertake to pay to the corporation on demand of its board of trustees the full amount of the subscription which they have made to the capital stock. Among many other requirements governing the liability of the stockholders and the preparation of the annual statement, this act provides that the companies must create a reserve fund equal to at least 20% of the capital stock, which reserve must be invested in United States bonds or in the bonds or warrants of the state of Washington or of any county or municipality or school district created under the laws of the state. The securities in which this fund is invested must be deposited with some trust company organized and doing business under the laws of the state, there to be held in trust for the benefit of any creditors of the corporation. In case the company has incurred liabilities to the amount of \$1,000,000 gross, the reserve fund must be increased by not less than 10% of the capital stock, and for every additional gross liability, 10% additional must be added to this reserve fund until such time as the entire capital stock shall have been paid in. Furthermore the corporation is not permitted to declare any dividends until the capital stock is fully paid, except such divi-

dends as may be applied on the payment of subscriptions to its capital stock.

Among the remaining laws affecting bonding and surety companies the following may be mentioned: (1) the law of California ('07 ch.523) providing that the Insurance Commissioner must prepare and give to the county clerk of each county a complete list of such companies holding certificates of authority to transact such business in the state; (2) the law of Delaware ('07 ch.165) providing that no surety company shall permit any discrimination in favor of applicants for bonds of suretyship between applicants of the same class and for the same kind of suretyship in the amount of premiums charged, and that no company in any way may obtain bonds of suretyship by allowing any sort of rebate; (3) the law of Indiana ('07 ch.54) stipulating that no bonding or surety company shall declare any dividends except from the surplus arising out of the business, or in any way reduce the net surplus of the company to an amount less than the whole amount of the unearned premiums or fees on existing obligations; (4) the law of New York ('07 ch.239) which carefully outlines the investments which such companies may make; (5) the law of Pennsylvania ('07 no.173) which provides that when any employee of any county, city, borough, school district, or township of the state is required to give a bond indorsed by a surety company it shall be lawful for such local political division to pay the premium on the same; and (6) the law of Wyoming ('07 ch.74) declaring it to be unlawful for any person, association or corporation to require any employee to take out a bond in any corporation which is not organized under the laws of the state, unless it shall have complied with the laws of Wyoming authorizing it to transact business therein.

**Live stock insurance.** Four states, Nebraska ('07 ch.72), Alabama ('07 p.472), Arkansas ('07 no.400) and South Dakota ('07 ch.172), passed laws providing for the organization of live stock insurance companies. Thus Alabama provides that, in accordance with the general insurance law of the state, such companies may be incorporated, provided there be a membership of at least 25 bona fide subscribers not one of whom shall be worth less than \$1000 in taxable property, and shall have been regularly listed by the State Insurance Commissioner to enter on such business. Before beginning business the company or association must have not less than \$6500 of capital stock, 50% of which must be



paid for in cash. In Nebraska such companies may write insurance against loss resulting from the death of domestic animals, if the company has a paid-up capital of \$100,000 or more. In Arkansas such companies must have a bona fide subscription of not less than \$20,000 in risks on which the premium is not less than \$1200; and the company and association before doing business must file with the Auditor of State a qualified bond with three or more good securities or with a surety company in the sum of \$15,000 to be conditioned for the prompt payment of all claims that may arise. Any such companies or associations must reserve not less than 50% of their premium income for the payment of losses. The law of South Dakota is similar to the foregoing except that the deposit which the company must keep with the Treasurer of State amounts to \$25,000, and any stock company organized under the laws of another state shall not engage in the business of live stock insurance unless the company has a fully paid-up capital of \$200,000, 20% of which shall be in cash on hand, and the remaining 80% invested and deposited as required by the law of the state.

Indiana provides ('07 ch.199) that no live stock insurance company, organized on the joint stock plan, is to be incorporated unless its capital amounts to \$100,000 and does not exceed \$500,000. Each subscription to stock before incorporation must be accompanied by a certificate to the Auditor or to the clerk of the Circuit Court of the county wherein such subscriber resides, that the subscriber is pecuniarily responsible to the extent of the unpaid portion or liability to be assumed.

**Burial insurance.** The states of Kansas ('07 ch.228) and Nebraska ('07 ch.28) enacted laws providing for the incorporation of companies transacting the business of burial insurance. The law of Kansas provides that such companies must transmit to the Superintendent of Insurance at least once a year a verified report as desired by the Insurance Department, and that whenever in the judgment of the Superintendent of Insurance any such corporation transacts its business in an unsafe, unfair or dishonest manner he shall at once take steps to wind up its affairs. All applicants for such insurance must designate in the application a beneficiary or trustee, who must be confined to the family heirs or relatives by blood or marriage; and in case there are no such heirs, the applicant may name the next best friend and all proceeds of the policy must be paid to such beneficiary or trustee in cash on the death of the holder.



Ohio ('08 p.131.) prohibits any individual or company engaged in the business of providing for the payment of funeral or burial expenses from acting in such a way as to prevent the family of the deceased from procuring and purchasing supplies and services in the open market without the advantage of competition. Louisiana ('08 no.246) passed legislation regulating the organization of industrial life insurance companies, requiring them to make certain deposits with the State Treasurer, and further providing that stock companies shall have a fully paid-up capital of \$10,000 and mutual companies an initial fund of at least \$5000.

**Title insurance.** Comparatively little legislation was enacted which deals with this important form of insurance, and only the acts of Pennsylvania ('07 no.275, 512) need be mentioned. The first of these laws provides that all companies incorporated under the act may issue insurance to owners of real estate and mortgages protecting them against loss of interest and principal resulting from defective titles, liens and encumbrances, provided that before beginning business such companies possess a capital of at least \$125,000, all of which shall have been paid in cash into its treasury. The second act provides for the taxation of such companies and designates the manner in which they shall furnish their detailed statement to the Auditor General preliminary to their incorporation.

### Laws pertaining to insurance in general

**Incorporation of insurance companies. Fixing the amount of capital stock.** During 1907, 10 states<sup>1</sup> passed laws governing the incorporation of insurance companies and prescribing the amount of capital stock. In general all these laws are similar in character to the laws previously passed by other states. In nearly all cases \$100,000 of capital stock is prescribed as the minimum amount for fire, casualty, or health companies, and from \$100,000 to \$200,000 for companies engaged in life insurance.

Aside from this, the various laws resemble previous laws on this subject in so far as they specify the method of incorporating the company, the manner of investing the capital stock and the proportion which must be paid in in order to begin business.

**State insurance.** In view of the great activity shown in foreign countries during recent years in favor of government insur-

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<sup>1</sup> Ind. '07 ch.262; Ia. '07 ch.79, 81; Minn. '07 ch.87, 162; N. H. '07 ch.37; Mich. '07 no.298; N. J. '07 ch.70, 72, 81; Wis. '07 ch.640; N. D. '07 ch.144, 150; S. D. '07 ch.171; La. '08 ch.203.

ance, it is a noteworthy fact that very little legislation was attempted along this line in America during the years 1907 and 1908. Massachusetts ('07 r.127) resolved that a commission of five members be appointed with a view to investigating and considering the various systems of old age insurance, old age pensions or annuities, both here and abroad, and reporting upon the advisability of establishing such a system in Massachusetts. The commission is especially instructed to furnish statistics which will show the probable expense of such a system to Massachusetts. To secure fairness in the report, the commission is to be so constituted that one member at least shall be a prominent representative of employers and another of employees.

Minnesota passed an act ('07 ch.479) proposing an amendment to article 9 of the Constitution of Minnesota, authorizing the State Auditor to levy an acreage tax for the payment, by the state of Minnesota, of damages to growing crops by hail and wind, and to provide a fund for that purpose. Tennessee ('07 p.2239) passed a resolution to the effect that a joint insurance committee be authorized and directed to consider the advisability and constitutionality of the state of Tennessee assuming through its Insurance Department the carrying of fire risks of its citizens and business interests of the state, and to make a report thereon to the General Assembly. Lastly, South Carolina ('07 no.268) enacted a plan by which the state arranged to carry 10% of the fire insurance on a large number of its state institutions; 90%, however, of all insurance carried upon each building and its contents still to be placed in reliable old line companies as heretofore.

**Removal of cases to federal courts.** Six states<sup>1</sup> seek to control more effectively foreign insurance companies transacting business within their boundaries by compelling them to settle disputes within the courts of the state, instead of having them transferred to the federal courts.

With slight variations these laws make it necessary for an outside insurance company, in order to transact business in the state, to constitute and appoint the Insurance Commissioner its true and lawful attorney, upon whom all lawful processes in any action or legal proceeding against it may be served. This instrument must also contain an agreement, according to which the company will not remove or make application for removal into any court of the

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<sup>1</sup> Minn. '07 ch.155; Kan. '07 ch.223; Neb. '07 ch.26; Tenn. '07 ch.253; Mo. '07 p.314; Tex. '07 ch.82.



United States, any action or proceeding commenced in any court of the state, upon a claim arising out of any business transacted within the state.

In case of failure to comply with this law, nearly all of the states provide that the insurance commissioner shall at once revoke the license of the company to transact business in the state, and the company shall not again be allowed to transact business in the state for a period varying from one to three years following the date of revocation.

**Retaliatory legislation.** For many years it has been the object of those most intimately connected with the insurance business to secure uniform legislation among the several states on insurance matters. The efforts of underwriters along these lines were especially directed against the retaliatory laws which one state would enact against the companies of another state, because the latter state, it was felt, had passed discriminatory legislation against the companies of the former. Much as such uniformity of legislation is to be desired, it is a regrettable fact that three states saw fit to adopt such retaliatory legislation, viz. Minnesota ('07 ch.420), Michigan ('07 no.199) and Rhode Island ('08 ch.1552).

The other two laws are similar in their provisions to the Minnesota law, which will suffice as an illustration. It stipulates that "whenever, by the laws of any other state or country, any taxes, fees, deposits, penalties, licenses or fees, in addition to, or in excess of those imposed by the laws of this state, upon foreign insurance companies and their agents doing business in the state, are imposed upon insurance companies of this state and their agents doing business in such state or country, or whenever any condition precedent to the right to do business in such state are imposed by the laws thereof, beyond those imposed upon such foreign companies by the law of this state, the same taxes, fees, deposits, penalties, licenses and fees and conditions precedent shall be imposed upon every similar insurance company of such state or country and their agents doing business or applying to do business in this state, so long as such foreign laws remain in force."



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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zg

BANKING

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The chief tendency revealed by banking legislation during the years 1907 and 1908 was in the direction of drawing a sharp line of distinction between commercial banking, the business of receiving and investing savings and that of administering trusts, no matter whether these lines of business are carried on separately by different institutions or in conjunction with each other in the same institution. Heretofore these lines of business have been more or less confused by being combined in different ways in institutions subject to different laws. Most banks in the United States receive both commercial and savings deposits. Many trust companies receive both of these kinds of deposits and trust funds in addition, and some savings banks receive, besides savings, trust funds and demand deposits. Quite commonly the laws governing these three classes of institutions have been so different that a particular kind of depositor has received different degrees of protection according as he has dealt with one kind of institution or the other, and the rights and privileges of these institutions have been far from the same even with regard to identical kinds of business. The first attempts to deal with this situation took the form of legislation which aimed at drawing sharp lines between the kinds of business permitted to each kind of institution. The quite general failure of these attempts doubtless accounts for the change in the methods of procedure noted above. Apparently our Legislatures are now inclined to devise suitable safeguards for each kind of business and to require every institution, by whatever name known, to observe the laws relative to each and every kind of business it transacts. Fully carried out in practice this method of procedure would require commercial and savings banks and trust companies to segregate demand, savings and trust deposits, to invest each as the laws prescribe and, in case of failure, to give each class of depositors a first lien on the securities

in which his deposits were invested and a proportionate equity in the other assets of the institution.

A good start along this line of procedure was made in 1907 and 1908 in several states. In Massachusetts, Maine, Rhode Island, New York, Pennsylvania and Missouri laws were passed providing for the segregation of demand and savings deposits in banks and trust companies by requiring a different percentage of reserve to be kept against each class of deposits. In Rhode Island, Massachusetts and Connecticut it is required that savings deposits, even when in commercial banks and trust companies, must be invested according to the regulations prescribed by law for savings banks, and that such investments must be appropriated to the payment of such deposits. The segregation of trust funds and their separate investment and administration is required by laws passed in Ohio and Maine. In a law passed in 1907 ('07 ch.138) the Legislature of Oregon carefully defined commercial banking and required all institutions conducting that line of business to conform to the regulations therein prescribed.

Other noteworthy tendencies revealed by a review of the legislation of 1907 and 1908 are: (1) the requirement of stricter supervision of these institutions by boards of directors; (2) the establishment of some proportion between the deposits and the capital stock of banks, Rhode Island ('08 ch.1590) fixing it at 10 to 1 for commercial banks and Missouri ('07 p.124) at 20 to 1 for savings banks; (3) the limitation of the amount that may be expended on building and fixtures, Ohio placing it at 60% of the capital and surplus, and Oklahoma at one third of the paid-up capital; (4) the permission, under restrictions, of branch banking in Rhode Island, Montana and Washington, and of the establishment of branches by trust companies in Missouri.

These and other significant features of the legislation of the two years under review will appear in the following summary.

### General laws

During their 1907 sessions the Legislatures of Arkansas ('07 p.1266), Rhode Island ('07 r.43) and California ('07 p.24) appointed committees for the purpose either of drafting new banking laws or of examining old ones with a view to changes. The result of these appointments and investigations was the passage of a new banking law by Rhode Island in the session of 1908. Other new banking laws were passed by Missouri, Nevada and



Oregon in 1907 and by Oklahoma and Ohio in 1908. All of these, except the Oklahoma, Nevada and Oregon laws, comprehend commercial banks, savings banks, trust companies and safe deposit companies. In most respects these laws are much alike and similar to those on the statute books of other states. Only those features which are somewhat or altogether peculiar will be noted here.

**Missouri.** The Missouri law ('07 p.124) prohibits branch banking and fixes a minimum capitalization for commercial banks of \$10,000 for towns of less than 150,000 inhabitants and of \$100,000 for larger towns, and a maximum capitalization of \$5,000,000. The reserve requirement of 15% applies only to *demand* deposits. Reports to the Bank Commissioner are required only *twice* a year instead of five times as in most states, and the limit of loans to single individuals, firms or corporations is 25% of the paid-up capital, and 25% of a surplus fund which shall equal or exceed 50% of the capital and shall be set apart as a permanent fund and be reported as such permanent fund to the Bank Commissioner. The ordinary surplus fund, to be accumulated by setting aside 10% of the net earnings at each dividend-paying period until the total shall equal 20% of the capital, is not to be counted in this connection. Officers and directors are not permitted to borrow in excess of 10% of the capital and surplus without the consent of a majority of the directors other than the borrower. Directors are required to meet at least once a month and all bills payable and discounts must have their consent. Private bankers are subjected to substantially the same restrictions as incorporated banks, but the proprietor is not permitted to be indebted to his institution to an amount in excess of 10% of the capital and surplus.

The minimum capitalization for trust companies is fixed at \$100,000 and the maximum at \$10,000,000. Trust companies must keep a reserve of 15% of their demand deposits either in cash or on deposit with other institutions, deposits for the withdrawal of which the company may require more than 20 days notice not to be considered as demand deposits. They are permitted to invest their funds in loans secured by real estate or other sufficient collateral or in the bonds of the United States, the state of Missouri or of the political divisions of the state of Missouri. They must report to the Bank Commissioner whenever required so to do. The requirements regarding the frequency of meetings of the board of directors and regarding loans to officers and directors are the same as for commercial banks.



The peculiar features of the provisions regarding savings banks concern their investments, the relation between capital and deposits, the surplus and the dividends. The investments permitted are confined almost exclusively to bonds of various classes carefully described in the act and to notes or bonds secured by first mortgages on real estate. No deposit is permitted to exceed \$4000 and the total deposits must not exceed 20 times the paid-up capital stock. Dividends can be declared only after at least 3% interest has been paid on all savings and trust deposits and then they must not exceed 6%. Any surplus available after such dividends have been paid must either be paid into an indemnity fund or be distributed among depositors whose deposits have remained in the bank during at least the preceding year and in proportion to the amount of interest received during the three preceding years. After a surplus fund has been accumulated in the usual manner,  $\frac{1}{4}\%$  of the deposits must be set aside at each interest day as an indemnity fund until the total shall equal 10% of the deposits.

**Nevada.** The Nevada law ('07 ch.166) is very brief, being only an addendum to a general corporation law approved March 15, 1903, and amended March 14, 1905. It merely prescribes the *modus operandi* of incorporation and of transferring stock, contains the usual provisions regarding real estate investments and prohibits any officer or director from becoming indorser or surety for loans by the bank to others or from borrowing from the bank without giving good and sufficient security which must be approved by the board of directors. Another act ('07 ch.119), passed in the same session, provides for the appointment, by a board of bank commissioners consisting of the Governor, Secretary of State and State Treasurer, of a Bank Examiner at an annual salary of \$2750. The duties of this officer are made substantially the same as those of the officers known in other states as the Commissioner or Superintendent of Banking.

**Oregon.** The Oregon law ('07 ch.138) defines banking as the business of opening credits on "deposit or collection of money or currency or negotiable paper subject to be paid or remitted upon draft, receipt, check or order" and subjects all concerns that transact this kind of business to the provisions of this act. The minimum capital requirement is placed at \$10,000 for banks in towns of less than 1000 inhabitants, \$25,000 for banks in towns of more than 1000 and less than 2000 inhabitants, \$30,000 for banks in towns of over 2000 and less than 5000 inhabitants, and \$50,000

for banks in towns of over 5000 inhabitants. Directors are required to meet at least once in three months. Loans to a single person, firm or corporation must not exceed 25% of the capital and surplus of the bank, unless they are secured by real estate, personal property, warehouse receipts or bills of lading. Loans to officers, employees or owners must not be made without the approval of the directors or of an executive or discount committee. The reserve requirement is 15% of the demand and 10% of the time deposits for banks in towns of less than 50,000 inhabitants and 25% of demand and 10% of time deposits in larger towns. At least one third of the reserve must consist of cash on hand.

**Washington.** The Washington law ('07 ch.225) provides for a bank examiner to be appointed by the Governor, the only qualifications prescribed being citizenship in the state of Washington and nonconnection with any bank as owner, officer or stockholder. The minimum capital requirements are practically the same as those prescribed by the Oregon law except that the number of gradations is larger, extending up to \$100,000 for banks in towns of over 50,000 inhabitants. It apparently authorizes, or at any rate permits, branch banking, since it does not prohibit the establishment of branches, and it frequently mentions branch banks when a list of institutions is mentioned to which a certain provision or provisions apply. Loans to officers and employees must have the consent of the board of directors, but no limitation is placed on the amount of loans to be made to single firms or corporations. The reserve requirement is 20% of the demand liabilities and the reserve may consist of cash or balances with banks in such proportion as the officers decide. Only three reports a year are required but these must be made on the dates of calls on national banks issued by the Comptroller of the Currency.

**Rhode Island.** The Rhode Island law ('08 ch.1590) prohibits the use of the terms, bank, savings bank or trust company, to any person or persons not incorporated, unless they were employing such terms previous to the passage of this act. It permits branch banking provided the consent of the Board of Incorporations, consisting of the Bank Commissioner, the Treasurer and the Attorney General, be first obtained. The reserve requirement of 15% of deposits is not to apply to savings deposits which, however, must be segregated and invested in the form prescribed for savings banks. Such investments must be set apart as security for the savings deposits. Loans to any single individual, firm or corporation must



not exceed 10% of the capital and surplus, and loans to officers must have the approval of the directors or of their finance committee. In the selection of reserve agents banks are limited in their choice to banks and trust companies belonging to the Clearing House Association of Providence and to banks and trust companies in New York, Boston, Philadelphia, Chicago and Albany. After October 1908, the deposits of banks must not exceed 10 times their capital and surplus.

Trust companies are subjected to the same regulations regarding reserves, loans to officers and directors, reports and examinations, as commercial banks. They are also required to set aside a portion of their assets, other than the assets of their savings department and equal in amount to their capital stock, as security for trust funds held by them, and an amount of securities or mortgages equal to 20% of their capital must be deposited with the Treasurer for this same purpose.

The provisions regarding the investments of the funds of savings banks and of savings funds of banks and trust companies are too elaborate and extensive even to be summarized here. It was evidently the intention of the Legislature to permit investment in all kinds of securities which can be regarded as safe and the purpose of the particular sections of the act here under review was evidently to draw the safety line in such a way as to interfere as little as possible with the freedom of the banks. Other sections of the act provide for the accumulation by savings banks of a guarantee fund equal to 5% of the total deposits, such fund to be used to meet losses arising from depreciation of securities or otherwise. For this purpose they are required to set aside each year not less than  $\frac{1}{8}\%$  nor more than  $\frac{1}{4}\%$  of their net profits until the above mentioned total has been reached.

**Ohio.** The Ohio law ('08 p.269) is carefully drawn with a view to providing for all possible combinations in the same institution of commercial banking, and the business of savings banks, safe deposit companies and trust companies. The capital requirements are different for different combinations of these lines of business, \$25,000 being the minimum for any combination of two of the three businesses of commercial banking, savings banks and safe deposit companies, \$50,000, if all three of these lines of business are combined, \$100,000 for trust companies or for any combination of trust companies with one of the other lines of business, and \$125,000 for any combination of trust companies with two or more of the other



lines. Whenever these different lines of business are combined separate books must be kept for each line.

The directors of commercial banks must meet at least once a month and all loans and investments must be reported to them. The buildings constructed by such a bank for its use must not exceed in value 60% of the capital and surplus. Loans to any single person, firm or corporation must not exceed 20% of the capital and surplus, unless secured by first mortgages on improved real estate exceeding 60% of its value. Loans on mortgages or other real estate security must not be made except in pursuance of a general resolution of the board of directors, and such loans must not exceed in the aggregate 50% of the capital and surplus in case of a commercial bank, or 60% of the capital and surplus in case of an institution combining the business of commercial and savings banks. Commercial banks are also permitted to invest in bonds of the United States, any state of the Union, foreign countries, in municipal and local government bonds of the United States and Canada and in mortgage and collateral trust bonds of any company which has paid dividends of at least 4% on its capital stock for at least four years. The reserves must equal at least 15% of the total deposits, and at least 6% of the demand deposits and 4% of the time deposits must consist of cash on hand. The remainder may consist of balances in other banks and trust companies designated as depositories by resolution of the board of directors.

Savings banks are required to keep the same percentage of reserves as commercial banks, but only one half of the amount of cash on hand. The list of their permissible investments includes everything in that of commercial banks and in addition stocks (except bank, safe deposit and trust company stocks) on which dividends have been paid for at least five years. Any notes taken must have two or more signers, must mature in six months or less, and the aggregate amount of them must not exceed 30% of the capital, surplus and deposits. The banks must not invest more than 20% of their capital and surplus in any one kind of security or in any one loan.

As security for their customers, trust companies must deposit with the State Treasurer, in cash or in United States, Ohio state or local, or first mortgage railroad bonds, \$50,000, if their capital is \$200,000 or less, and \$100,000, if their capital is more than \$200,000. Their permissible investment list is the same as that for savings banks, with ground rents in addition. However, not more than 60%

of their capital, surplus and deposits may be loaned on notes secured by real estate collateral, and all such loans must be approved by the board of directors. The investments of their capital and surplus must be secured by collateral of the kind they are permitted to buy. The securities in which trust funds are invested must be kept as a special fund for the security of such deposits. No reserves on trust funds are required, but on all others the reserve requirements are the same as for savings banks.

The act also provides for the appointment of a superintendent of banks with a salary of \$5000 per annum and the usual powers.

**Oklahoma.** The Oklahoma law ('08 ch.6 art. 1, 2) has attracted more attention than any of the others on account of the deposit guarantee innovation which it introduced, and some of its other features are noteworthy. The minimum capital requirement which it imposes is \$10,000 for banks in cities of less than 2500 inhabitants, \$15,000 in cities having between 2500 and 5000 inhabitants, \$20,000 in cities having between 5000 and 10,000 inhabitants, and \$25,000 in cities of over 10,000 inhabitants. The amount of the surplus fund required to be accumulated in the usual way is 50% of the capital instead of 20%, the rule in most states. It permits banks to borrow on the security of their assets to an amount not to exceed 50% of their paid-up capital, and to loan to stockholders not to exceed 50% of their capital. It forbids loans to officers. A reserve of 20% of deposits is required of banks in towns having less than 2500 inhabitants, and one of 25% in other towns. All banks which are not reserve agents for other banks may keep two thirds of their reserves on deposit in other institutions. Loans to a single person, firm or corporation must not exceed 20% of the capital stock except in cases in which they consist of advances to assist in the marketing of agricultural products, in which cases they may amount to 75% of the capital.

For the purpose of guaranteeing deposits a state board is established consisting of the Governor, Lieutenant Governor, president of the State Board of Agriculture, State Treasurer and State Auditor, and directed to make a levy on the banks of 1% of their average daily deposits for the preceding year, less the deposit of state funds properly secured. Each year thereafter each bank is required to report to the Bank Commissioner the amount of its average daily deposits and to pay into the guarantee fund 1% on the excess over the amount reported the preceding year. In case this fund is depleted from any cause the state banking board is



authorized to levy special assessments sufficient to make good the deficit. Whenever, on account of insolvency or for any other cause, the Bank Commissioner shall take possession of a bank for the purpose of winding up its affairs; he is directed to pay the depositors in full, and, when the cash available of said bank, or that can be made available, is not sufficient for this purpose, he is directed to take the balance from the guarantee fund and, if necessary, from the proceeds of special assessments. For the replenishment of the guarantee fund the State Banking Board is given a first lien on the assets of the bank and on all liabilities against stockholders, officers and directors, and all other persons, corporations or firms. Upon compliance with the provisions of this law each bank receives from the Bank Commissioner a certificate stating that it has complied with the provisions of the guarantee law, and that the safety of its depositors is guaranteed. This certificate is required to be conspicuously displayed in each bank's place of business.

### **Amendments to general banking laws**

During the two years under review several states improved very much their regulations regarding the supervision of the banking business. Montana ('07 ch.190), Oregon ('07 ch.138), Florida ('07 no.92) and Indiana ('07 ch.182) provided for the appointment of Bank Examiners and endowed them with the powers usually conferred upon such officers. Georgia ('07 p.85) created a bank bureau in her Treasury Department, made the Treasurer Bank Examiner with the usual powers, and authorized him to appoint an assistant examiner. Vermont ('06 no.203) changed the name of her former Inspector of Finance to that of Bank Commissioner. Kansas ('07 ch.65), Missouri ('07 p.123), Pennsylvania ('07 no.280) and New York ('08 ch.57) provided for increases in their forces for inspection and supervision, and Kansas provided that her banks should be examined twice a year. The power of the Commissioner of Banking was extended in Pennsylvania ('07 no.309) and Wyoming ('07 ch.68) so as to include private persons and unincorporated companies doing a banking business; in West Virginia ('08 ch.30) to include savings banks; coöperative banking associations, trust companies, building and loan associations and all associations of like kind and character; and in Massachusetts ('07 ch.377) to include any person, other than a steamship or express company selling steamship tickets, taking deposits of money for safekeeping or transmission. For the protection of the same



class of persons aimed at in the Massachusetts law, New York ('07 ch.185) and New Jersey ('07 ch.106) require persons who receive deposits for international transportation and similar purposes to give bonds for the honest and faithful conduct of their business, and the latter to receive from the Commissioner of Banking a certificate of permission before they can do business.

Montana ('07 ch.137) authorized the establishment within the state of branches of foreign banks on condition, (1) that such a branch have a capital stock equal to that required of national banks in the place in which it is located, (2) that it receive a certificate of authorization by the State Auditor, (3) that it keep a reserve of at least 20% of its deposits, one half of which must be cash on hand; (4) that its loans to any single firm, person or corporation do not exceed 10% of its capital, and (5) that it report regularly to the Bank Examiner and submit to his inspection. New Jersey ('07 ch.35) provides that banking corporations of other states or countries may transact business in New Jersey only to the extent that similar New Jersey corporations are permitted to transact business in said foreign states. Pennsylvania ('07 no.302) requires foreign companies and agents dealing in foreign securities to be licensed by the Commissioner of Banking; to deposit with a Pennsylvania Trust Company \$100,000 in specified kinds of bonds as security for the proper conduct of their business; to be subject to inspection by the Commissioner of Banking; and not to guarantee to their customers more than 8% on their investments.

Relative to **reserves** the most important amendments are the following: Pennsylvania ('07 no.150) requires commercial banks, savings banks and trust companies to hold a reserve of at least 15% against deposits subject to check and one of at least 7½% against time deposits. In the former case at least one third of the fund must consist of cash or clearing house certificates, one third may be invested in specified bonds, and one third be on deposit in Pennsylvania banks and trust companies approved as reserve agents by the Commissioner of Banking. In the latter case the fund may all be on deposit with approved reserve agents and one third of it may be invested in specified bonds. Texas ('07 ch.37) authorized the use as reserve agents for her banks, of foreign banking or trust companies approved by the Superintendent of Banking. New York ('08 ch.151) increased her reserve requirements from 15% of deposits to 25% for banks in New York city, and from 10% of deposits to 15% for other banks. The amount

allowed to be kept on deposit with reserve agents was reduced from one half to two fifths for banks in New York city and fixed at one half for banks in villages and at three fifths for other banks.

The following amendments relate to **loans and discounts**: Iowa ('07 ch.91) authorizes loans to directors not holding any other office, on condition that they be made by resolution of the remainder of the board and that they be secured in the same manner as loans to outsiders. Minnesota ('07 ch.156) modified the provision of the law limiting loans on real estate to 15% of the capital and surplus, by authorizing loans to the extent of 20% of the capital and surplus on first mortgages on improved farm lands of the state, worth more than double the amount of the loan. Montana ('07 ch.164) forbids loans to officers unless they be secured by good collateral or otherwise and, if they exceed 10% of the capital, unless they be approved by the directors. Wyoming ('07 ch.55) increased the amount permitted to be loaned to a single individual, firm or corporation from one seventh to one fifth of the capital stock. New York ('08 ch.169) reduced the amount of loans which banks in New York city are permitted to make to single individuals, firms or corporations from 40% of the capital and surplus and 30% additional, if secured by collateral worth at least 15% more than the loan, to 25% of the capital and surplus and 15% additional, if secured by collateral. A similar reduction was made on the amount of bills of exchange or commercial paper allowed to be discounted. Oklahoma ('08 ch.6 art.3) limited the amount of loans running longer than a year and secured by real estate mortgages to 20% of the total loans authorized, and limited the value of the building and fixtures owned by the bank to one third of the paid-up capital, and Ohio ('08 p.269) limited the value of the real estate owned to 60% of the paid-up capital and surplus.

Other amendments aim at facilitating the process of settling the affairs of **insolvent banks** and protecting the assets of such banks by giving the commissioners authority to take possession as soon as they suspect insolvency. Methods of procedure after this point vary according to the part played by the courts in the matter. Arizona ('07 ch.96) and New York ('08 ch.143) strengthened and improved their laws pertaining to this subject. Indiana ('07 ch.7) and Nevada ('07 ch.189) increased the penalty imposed upon officers of insolvent banks for receiving deposits after knowing their banks to be insolvent.

The following states changed their **capital requirements**, the



minimum fixed in all cases being \$10,000: Colorado ('07 ch.140), Nebraska ('07 ch.3), Kansas ('08 ex. sess. ch.15), Mississippi ('08 ch.110) and Virginia ('08 ch.207).

### Trust companies

As noted above the tendency of legislation regarding trust companies was to cause them to segregate their different lines of business and to conduct each, subject to the laws governing institutions which make that line of business their specialty. For example Massachusetts ('08 ch.520) requires trust companies which solicit savings deposits to conduct a special savings department and to invest such deposits in the same manner as savings banks are required by law to invest theirs, such investments to be appropriated solely to the payment of such deposits. Maine ('07 ch.96) requires the segregation of trust funds and their separate investment and the special appropriation of such investments to the owners of such funds. North Carolina ('07 ch. 829) makes the same requirements of trust companies as of banks relative to investments in real estate and reports to the Corporation Commissioner.

Regarding **reserves** the tendency clearly is to require the segregation of demand and savings deposits, and in case of the former, to require the same reserves that banks are obliged to keep. In Massachusetts ('08 ch. 520) deposits payable on demand or within 30 days are subject to a reserve requirement of 20% in Boston and 15% in other parts of the state, of which two fifths must consist of cash on hand, one fifth may consist of United States or Massachusetts bonds, and the remainder of balances with other banks. New York ('08 ch.152) segregates demand and time deposits in substantially the same manner as Massachusetts and requires a 15% reserve in cities and a 10% reserve in villages. In New York city the reserve must consist entirely of cash; in other cities at least two thirds, and in villages at least one half must be cash. Missouri ('07 p.190) excludes from the category of demand deposits all those for the payment of which a notice of more than 20 days may be required. The reserve requirement for demand deposits is 15%, consisting either of cash or balances in other banks, the proportion being left to the discretion of the officers of the institution.

Other noteworthy amendments to laws pertaining to trust companies are as follows: Maine ('07 ch.96) includes among the



enumerated powers of trust companies, that of conducting a banking business. The minimum capital requirement in towns of 5000 inhabitants or less is \$25,000, and \$150,000 in towns of over 30,000 inhabitants. Branches are permitted with the consent of the Bank Examiner. Loans to single persons or firms, unless secured by collateral, must not exceed 10% of the capital, surplus and undivided profits, except on approval of the investment board, and must not exceed 25% of the capital, surplus and undivided profits even with such approval, unless the excess over this amount is secured by collateral, the value of which, in the opinion of the board, equals or exceeds such excess. Loans to officers and directors must have the approval of the investment board or of the board of directors. Trust companies must be examined once a year by the Bank Examiner and must report to him whenever so required. New York ('08 ch.121) prescribes that the stocks and bonds of trust companies must not be valued in the report of the Superintendent of Banks at a higher price than their investment value as determined by amortization and that such companies must not own more than 10% of the stock of any other moneyed corporation, unless it be that of a safe deposit company whose vaults are connected with or adjacent to such trust company. Connecticut ('07 ch.180) forbids trust companies to engage in any kind of insurance business, and Washington ('07 ch.126) permits those who do not engage in the banking business to guarantee land titles. Massachusetts ('07 ch.487) reduced her minimum capital requirement for trust companies in towns of under 100,000 inhabitants from \$200,000 to \$100,000 and for others from \$500,000 to \$200,000. California ('07 ch.453) fixed her minimum capital requirement for trust companies at \$100,000.

### **Savings banks**

In 1907 the Legislature of Massachusetts ('07 r.24) appointed a committee consisting of the Bank Commissioner, the Treasurer, the Receiver General and the Commissioner of Corporations to examine her laws relative to savings banks and to suggest changes therein. From their action resulted, in the session of 1908 ('08 ch. 590) a codification of the savings bank laws and some slight amendments. In the session of 1907 Connecticut adopted three minor amendments to her laws pertaining respectively to payments to joint depositors and to the order of deceased depositors and to the duplication of lost pass books. In 1907 New Hampshire adopted two amendments, one prohibiting the use of the designation savings bank by

unauthorized persons or corporations and extending the power of the bank commissioners to enforce the regulations, and a second, prescribing that trust funds and public moneys may be deposited in savings banks in unlimited amounts. Maine and Texas also adopted slight amendments to their savings bank laws in 1907, the former pertaining to payments to joint depositors and adding California, Oregon and Washington to the list of states in whose securities investments are authorized, and the latter making clearer and more definite the powers of savings banks. In the session of 1908 four slight amendments to savings bank laws were passed by the New York Legislature, and three by that of New Jersey.

### Pawnbrokers

Delaware ('07 ch.163) and New Hampshire ('07 ch.26) prohibit pawnbrokers from receiving articles from intoxicated persons, the former limiting the prohibition to wearing apparel or household goods. Massachusetts ('07 ch.500) requires pawnbrokers on receiving builders tools to list the same in a book with the name and address of the pawnee, and New Jersey ('07 ch.15) prohibits the receipt of mechanics and building tools, unless accompanied by the affidavits of two reputable citizens that the same are the property of the pledgor. Minnesota ('07 ch.228) prohibits junk or secondhand dealers or pawnbrokers from receiving goods from minors. Michigan ('07 no.337) prohibits in cities of more than 20,000 inhabitants, the loaning of money on chattel mortgage or assignment of salary at a rate of interest in excess of 2% per month. It also prohibits all bonuses and requires a city license of persons transacting such business.

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zh

COMMERCE AND INDUSTRY

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Governors messages and legislative enactments of 1907 and 1908 are above all indicative of a serious effort to check loose and dishonest business methods and of a tendency to increase the supervisory power of states over trades and professions; the first may be seen in the earnestness and in the vigor of the recommendations, as well as in the far-reaching character and in the number of measures enacted with regard to adulterations, imitations, misbranding, speculation, warehouse receipts, weights and measures etc.; the second in the creation of various state boards of examiners and inspectors, state commissions and commissioners, etc. While in many instances the creation of state boards was an outgrowth of legislative attempts to curb dishonesty, this was not true of all enactments, as many boards were established for purely regulative purposes, or for statistical, advertising and similar work. The creation of special boards and commissions is not new, but it is interesting to note their multiplication and the variety of subjects with which they are intrusted to deal.

**Weights and measures.** The problem of curbing abuses resulting from cheating through underweight and scant measure is ever existing in all the states and territories of the Union. The Governor of West Virginia in his message of January 8, 1907 (p.92-93) speaks of a communication he received from the Bureau of Standards of the Federal Government in which he is asked to coöperate with that bureau and with the sealers of weights and measures of other states, to improve the conditions affecting commercial weights and measures. The communication calls his attention to the fact that the number of convictions for the use of dishonest weights and measures in localities where rigid inspection is maintained makes it evident that "the amount of fraud in states and cities where there is no inspection, must be enormous, and unfortunately the loss falls upon those too poor or unfortunate to



protect themselves." The federal government is interested in the establishment of uniform weight and measure laws throughout the United States, as the imperfections of many state laws, combined with a very deficient system of inspection and sealing, undoubtedly lead to many abuses on the part of unscrupulous dealers.

Among the laws passed in 1907 and 1908 the most comprehensive was that of New Jersey ('08 ch.259) establishing uniform standards of weights and measures to conform to those kept in the National Bureau of Standards in Washington. Laws similar in character, though not as wide in scope, were enacted by different states in various parts of the country; the laws, whether newly enacted or amendments of the already existing statutes, are in keeping with the state legislation of previous years, regulating the methods of measuring and weighing agricultural products, coal, ice, milk etc., and providing penalties for misrepresentation. A passing notice may be taken of an amendment of the Ohio statutes ('08 p.132), which makes it unlawful not only to sell but also knowingly to purchase by means of false weights or measures. New York ('07 ch. 684) prohibited the sale of apples, pears and peaches grown elsewhere as state fruit and fixed the size of barrels ('08 ch.486) in which the fruit must be sold. Massachusetts passed in rapid succession three amendments, all relating to the sale of coal and coke, ordering that the bags or baskets in which the coal is sold should bear the name of the person putting the same up and should indicate the quantity or weight contained in the receptacle. Measures regulating the sale of coal were also passed by the states of Mississippi ('08 ch.206), Rhode Island ('08 ch.1563) and Washington ('07 ch.100); the latter made it a misdemeanor to sell a short weight ton of coal.

Delaware ('07 ch.167), New Jersey ('07 ch.150) and Pennsylvania ('07 no.56) established standard measures for milk and cream, providing penalties for their sale in receptacles not conforming to the standards, while New Hampshire found it necessary to put on her statute books a law ('07 ch.20), stating that dealers in ice and drivers of ice wagons must weigh ice at the request of the purchasers.

Comparatively few new laws were enacted relating to the appointment of inspectors or sealers of weights and measures; one of the most important of these was the law of Massachusetts ('07 ch.534) creating the office of a commissioner of weights and measures to be appointed by the Governor and the council and to be aided in his

work by four inspectors. New Mexico ('07 ch.98) made provisions for the establishment of county inspectors of weights and measures, and North Dakota ('07 ch.273) appointed county sheriffs for the work of inspecting and sealing of scales, balances etc.

**Adulterations and imitations. Branding. Inspection.** The passage of the Federal Pure Foods and Drugs Act of 1906, stimulated state Legislatures to adopt measures preventing and punishing the adulteration of articles liable to affect public health. These laws are considered in the *Review of Legislation* on Public Health and Safety. As regards other products, the laws of 1907 and 1908 pay particular attention to the adulteration of stock feed, commercial fertilizers, oils, paints and petroleum, and to the misbranding of gold and silver ware.

Of the four laws regulating the sale of commercial feed for stock, two, those of Kansas ('08 ex. sess. ch.75) and of Ohio ('08 p.81), are amendments, the Ohio amendment making it obligatory for packages of feed stuffs to be provided with labels, showing the products from which the feed is made, its chemical analysis, and the names of the manufacturer and the shipper. In Virginia ('08 ch.188) the sale of stock feed is placed under the supervision of the newly created Dairy and Food Commissioner in the Department of Agriculture and Immigration.

Eight laws, six original and two amendments, were passed dealing with the sale of oils and paints. Iowa ('07 ch.131), Minnesota ('07 ch.421), South Dakota ('07 ch.196) and Ohio ('08 p.118) require that the paints should be clearly and distinctly labeled; the labels must show the name and address of the manufacturer of, or the dealer in the article, and the percentage of each ingredient, both solid and liquid, contained in the can. The sale of adulterated paints has been made a misdemeanor punishable by a fine. Minnesota intrusted her Dairy and Food Commissioner with the enforcement of the law.

Washington ('07 ch.192) and Ohio ('08 p.513) created the position of a State Oil Inspector, with the object of supervising the examination and the testing of oils, gasoline, naphtha etc. The laws establish standards, indicate how the tests should be made and fix penalties for frauds. Michigan ('07 no.178) passed a law requiring the labeling of containers of gasoline, benzine or naphtha; a similar law was enacted in 1908 in Ohio ('08 p.245) and one, somewhat more limited, dealing with gasoline only, in Oklahoma ('08 ch.61 art.1). Considering the dangerous nature of these substances the



laws are most wise, and it is highly desirable that similar measures should be adopted by those states which as yet have failed to legislate in the matter. Colorado ('07 ch.200) forbade the sale or use of uninspected oil, and Connecticut ('07 ch.211) and Montana ('07 ch.121) fixed flash or fire test standards, prohibiting the sale of products which can not pass the test. Delaware ('07 ch.161), in an amendment, raised her fire test requirements.

Ohio ('08 p.343) and Virginia ('08 ch.72) amended their legislation regulating the sale of commercial fertilizers.

Six states in 1907, Colorado ('07 ch.160), Massachusetts ('07 ch.460), Minnesota ('07 ch.467), North Carolina ('07 ch.331), Rhode Island ('07 ch.1454) and Utah ('07 ch.10), and one state in 1908, New Jersey ('08 ch.188), prohibited the stamping or offering for sale of gold and silver articles in any way which might mislead the purchaser as to the fineness of the metal. The laws of different states are more or less uniform in their provisions, defining minutely the methods of branding and the penalties for frauds.

**Associations. Exchanges. Speculation.** In 1907 the Governors of Missouri, Massachusetts, Alabama, South Carolina, Texas, Arkansas and Florida successively raised their voices against gambling and for the suppression of bucket shops, recommending the enactment of most rigid laws in order to stamp out the evil of illegitimate speculation. The shops are described as "one of the most vicious forms of gambling . . . whose existence is a fruitful source of embezzlement and larceny." The Governor of Texas in his message (Jan. 16, '07) attacked all "futures" concluded on the stock and produce exchanges, declaring them "of as serious concern to society as all the gambling houses in the country."

Laws prohibiting dealings in "futures" were passed by Alabama ('07 p.448), Arkansas ('07 no.162), Montana ('07 ch.115) and Florida ('07 no.85), while California ('07 p.1360) by a constitutional amendment declared void all contracts relative to stock speculations, and Vermont ('06 no.189) made her previous law against stock gambling more comprehensive. Thirteen states passed measures forbidding the keeping of "bucket shops" and imposing penalties for the violation of the laws. These states were Arkansas, Connecticut, Indiana, Iowa, Maine, Massachusetts, Michigan, Minnesota, Missouri (an amendment of previous acts), Nebraska, Pennsylvania, South Carolina and Texas.



The enactment of "bucket shops" laws so vigorously pushed in 1907 was continued in 1908, and five more states, Mississippi, New York, Oklahoma, Rhode Island and Virginia were added to the list of those which through legislative enactments are trying to stamp out the evil of bucket shop gambling.

It was in 1908 that President Roosevelt, in a message to Congress (Jan. 31, '08, p.9-10), expressed his belief that the federal governments could do something towards checking "the grosser forms of gambling in securities and commodities by prohibiting the use of mails, telegraph and telephone wires for mere gambling in stocks and in futures just as it does in lottery transactions." A few months later, Governor Hughes of New York (Apr. 9, '08, p.4) recommended the appointment of a commission to inquire into the facts relative to speculation in securities and commodities with a view to ascertaining the manner in which illegitimate transactions may be prevented and legitimate business safeguarded. No action was taken on this recommendation<sup>1</sup> but New York passed a law defining and prohibiting bucket shops.

Oklahoma ('08 ch.75, art.2) enacted a measure making it a misdemeanor for a commercial agency to furnish false ratings of business firms and ordering that those who are rated should be sent records of their ratings.

**Warehouses. Markets.** Wisconsin ('07 p.1279) and Nebraska ('07 ch.205) memorialized Congress to pass an act providing uniform standards for grading and inspecting grain in terminal markets of the United States. Idaho ('07 p.529) created a State Grain Commission with power to establish standard grades of grain, to pass regulations regarding the weighing and inspecting of cereals and to adopt a form of warehouse receipts. A law similar to the one of Idaho was passed in Kansas ('07 ch.222); it created a State Grain Inspecting Department; this department has full charge of the inspection, weighing, grading and storing of grain within the state; the act provides for an appointment by the Governor of a chief inspector of grain, regulates the warehousing business, the issuance of receipts, etc. The law of Minnesota ('07 ch.252) prescribed a uniform method for handling grain in public warehouses and the use of a standard bushel. North Dakota ('07 ch.129) instructed her Governor to appoint a Grain Commission Board for the purpose of investigating into the feasi-

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<sup>1</sup>i. e. by the Legislature, but Governor Hughes on his own initiative appointed such a commission later.

bility and the practicability of establishing a state operated grain terminal elevator and of inquiring into the existing methods of grading, etc. The law passed in Missouri in 1907 ('07 p.285), dealing with state inspection of grain, was in 1908 declared unconstitutional, as it involved an invalid delegation of legislative power (*Merchants' Exchange v. Knott* 111 S. W. 565).

In Minnesota ('07 ch.73) the Railroad and Warehouse Commission has been empowered to fix the time for the opening and closing of general warehouses, and in South Dakota ('07 ch.209) the law gave the railroad commissioners the right to enter public warehouses at any time during business hours, should they desire to inspect the books and accounts of the warehousemen.

In 1907 Connecticut, Illinois, Iowa, Massachusetts, Minnesota, New Jersey and New York adopted uniform warehouse receipt laws; similar laws were adopted in 1908 by Louisiana, Ohio, Rhode Island and Virginia. The way is thus being paved for a long needed uniformity in legislation regulating the issue, the negotiability and the transfer of this important business document. The laws passed regulate also the obligations and rights of warehousemen with regard to their receipts.

**Regulation and licensing of trades and occupations.** Sixty laws, of which 36 were new statutes and 24 amendments, were passed in 1907; they deal with accountants, auctioneers, barbers, commission merchants, cotton ginner, gypsy fortune tellers, hawkers and peddlers, horseshoers, junk and second hand dealers, hotel-keepers, nurses and veterinary surgeons. Several subjects, such as bill posting, dentistry, pharmacy, pawnbroking, are not considered in this review, belonging more properly in other subdivisions of this work.

The number of laws passed in 1908 was much smaller than during the preceding year, only 13 original statutes and 7 amendments having been enacted.

A few old laws were declared by state courts unconstitutional; of these court decisions the most important were, the one in Washington declaring unreasonable and arbitrary the nongranteeing of licenses to barbers unless they have had two years apprenticeship under a practicing barber (*State v. Walker* 92 P. 775 [1907]), and the one in Utah declaring that the request for a license to peddle certain goods not produced in the state (agricultural implements, jewelry etc.) interferes with the freedom of interstate commerce and is not within the police power (*State v. Bayer* 97 P. 129 [1908]).

In 1907 Colorado, Connecticut and Utah, in 1908 Georgia, Louisi-



ana and Ohio created State Boards of Accountancy. The laws are more or less similar in their statutory requirements to those previously passed by other states, Louisiana ('08 no.125) and Georgia ('08 p.86), like California, Maryland or Rhode Island, not demanding preliminary education in public schools or professional training from those to be examined by the board with a view of granting a license to practise accountancy, while Colorado ('07 ch.203), Connecticut ('07 ch.202) and Ohio ('08 p.332) require graduation from a high school or its equivalent and either two or three years practical experience in the work of accountancy as a preliminary test. Penalty is imposed for an unauthorized use of C. P. A.

Of interest is the recommendation of the Governor of Utah (Jan. 15, '07 p.34-35) that the barber law of the state should be so amended as to make it an offense, punishable by fine or imprisonment or both, for a person afflicted with a disease likely to be disseminated from a barber shop, to apply for service in any shop of the state.

Texas ('07 ch.141) created a Board of Barber Examiners, to examine and license barbers in towns of over 1000 inhabitants; Connecticut ('07 ch.76) amended its law regulating barbering so as to provide for at least an annual inspection of barber shops by the examining board. Other amendments tending either towards a stricter supervision of shops with regard to sanitation or a more careful granting of licenses were passed by Missouri ('07 p.79), Oregon ('07 ch.157), Utah ('07 ch.154), and Wisconsin ('07 ch.54). New Hampshire ('07 ch.142), in a new law, prescribed minutely the rules for cleanliness in barber shops, instructing the local boards of health to see to their enforcement.

Louisiana ('08 no.308) established a Board of Engineering Examiners. Attention has been called both in this and in the preceding reviews of legislation to a general tendency towards the appointment of special state commissions to regulate trades and occupations. The years 1907 and 1908 were especially prolific in this respect. In addition to the boards mentioned the following were created: Boards of Examiners of Nurses by the states of Georgia ('07 p.117), Illinois ('07 p.383), Minnesota ('07 ch.153), New Hampshire ('07 ch.50) and West Virginia ('07 ex. sess. ch.11), Boards of Veterinary Medical Examiners by California ('07 ch.501), Georgia ('08 p.88), Louisiana ('08 no.202), Minnesota ('07 ch.419), Michigan ('07 no.244), Utah ('07 ch.122), Washington ('07



ch.124) and Wisconsin ('07 ch.334). A few states amended their statutes relative to the examination and registration of those intending to engage in the profession of nursing. North Carolina ('07 ch.542) has added to her requisites the following: applicants must be at least 21 years old, must have received a high school education or its equivalent and must be graduated from a three years training course in a hospital. Somewhat similar are the qualifications required of the applicants in the laws which created the boards of nurse examiners. Without establishing a special examining board, Iowa ('07 ch.139) provided for the examination and regulation of nurses by empowering the State Board of Health to appoint an examining committee from year to year.

Some states seem to underestimate the importance of veterinary medicine and surgery. Utah ('07 ch.122), for instance, after an elaborate discussion of the organization of the veterinary examining board, its meetings, its regulating power, and after a detailed consideration of the qualifications of applicants for examination and the licensing of those who successfully passed it, declares: "nothing in this act shall prevent any person practising veterinary medicine, surgery, or veterinary dentistry, providing said person shall not use the title "Veterinarian," "Veterinary Surgeon," or "Veterinary Dentist," or analogous title . . ." Maine ('07 ch.89) passed an amendment of substantially the same character: "any one may practise veterinary surgery, providing he does not advertise and does not use the title of V. S." An opposite view is held by Michigan ('07 no.244) and many other states whose acts specify that it shall be unlawful for any person to practise veterinary medicine without being registered by the State Veterinary Board.

Texas ('07 ch.38) and Washington ('07 ch.139) passed laws defining the duties of commission merchants and requesting that bonds should be given by them, guaranteeing the proper performance of their functions.

Alabama ('07 p.278) and Texas ('07 ch.167) established bureaus of cotton statistics in their Departments of Agriculture, cotton ginneries being requested to report at stated intervals the number of bales ginned. Louisiana ('08 no.212) intrusted the Commissioner of Agriculture with the work of fixing standards for the grading of cotton.

With three exceptions, the hawkers and peddlers acts of 1907 are amendments, all dealing with the subject of licenses. The

exceptions are the new laws of North Dakota ('07 ch.257), of Utah ('07 ch.106) and of Wyoming ('07 ch.46), establishing a license tax on itinerant vendors. In 1908 only one act was passed; it declared that a license granted to a peddler may be revoked on conviction of a crime warranting revocation (Massachusetts, '08 ch.208).

Junk and secondhand dealers are prohibited from accepting goods from intoxicated persons in Delaware ('07 ch.163) and from minors in Minnesota ('07 ch.228).

**Miscellaneous trade regulations.** The laws in this category consider printed misrepresentation of goods offered for sale, discriminations between persons or localities, trading stamps, and public and legal holidays.

Massachusetts ('07 ch.383) made the publication of false or wilfully misleading advertisements punishable by a fine, or by imprisonment, or by both. Arkansas ('07 no.298), Missouri ('07 p.234), Nebraska ('07 ch.157), South Dakota ('07 ch.131) and Louisiana ('08 no.128) prohibited unfair competition through discrimination in price between different localities with the object of destroying the business of a competitor. Kansas ('07 ch.139) prohibited exclusive contracts by means of which persons, firms or corporations conditioned that dealing in their goods should exclude dealing in the wares of others; the law must not be construed as forbidding the appointment of sole agents or the making of contracts for exclusive sales. Kansas ('07 ch.254) enjoined news agencies to furnish service to all on equal terms, and telegraph or telephone companies must refuse business of agencies violating the act.

State courts continue to hold the opinion that laws prohibiting the issuance of trading stamps are unconstitutional. Following the example of California and of Massachusetts in 1906, a similar stand was taken in Washington in 1907, the reason given being that such laws deprive of property without due process of law (*Leonard v. Bassindale* 89 P. 879).

The number of state holidays continues to grow, and the years 1907 and 1908 have done their share in adding to the list of such holidays. In 1907 two new holidays were established in Colorado, August 1 to be known as Colorado day ('07 ch.189) and October 12 as Columbus day ('07 ch.190); Lincoln's birthday was made a legal holiday in South Dakota ('07 ch.181), in Indiana ('07 ch.229) and in Kansas ('07 ch.245); Labor day in South Dakota ('07



ch.181), Good Friday in Minnesota ('07 ch.254) and in New Jersey ('07 ch.244), Lee's birthday in Arkansas ('07 no.160). In 1908 Defenders' day, September 12, and Columbus day were adopted as holidays by Maryland ('08 ch.181 p.7), Labor day by Oklahoma ('08 ch.53 art.5) and Rhode Island Independence day, May 4, by Rhode Island ('08 ch.1591).

**Encouragement of industries.** The Alaskan-Yukon Pacific Exposition, in Washington, and the Jamestown Exposition, in Virginia, prompted the passage of many acts by different states, indorsing the expositions, appropriating money and making provisions for state exhibits, creating exposition commissions, etc.

The problem of attracting desirable immigrants into the states is discussed in 1907 in a number of Governors' messages. The Governor of South Dakota (Jan. 8, '07 p.6) urges the creation of an immigration commissioner, the Governor of Washington (Jan. 14, '07, p.36-37) suggests the establishment of a state board of publicity, the Governor of Florida (Apr. 2, '07, p.55-56) calls the attention of the legislators of the state to the Department of Agriculture, Commerce and Immigration in South Carolina and expresses his belief that a similar department, if established in Florida, could be of great value in securing permanent settlers both from abroad and from other parts of the United States. Other governors, whose messages deal with the benefits of immigration and with the steps to be taken for its encouragement are those of Alabama, Delaware, New Mexico, North Carolina, North Dakota, South Carolina and Wyoming.

Either in response to these recommendations or independently a number of state boards were created for the purpose of advertising state resources and attractions, and of encouraging immigration. The names of these boards vary, in Alabama ('07 p.313) receiving the name of an Immigration Board, in North Carolina ('07 ch.924) of a Department of Agriculture, Immigration and Statistics, in Nevada ('07 ch.185) of a State Industrial and Publicity Commission, etc. Other states which legislated in the matter were Delaware ('07 ch.116), Minnesota ('07 ch.267), South Dakota ('07 ch.76), Tennessee ('07 ch.469), Wisconsin ('07 ch.407) and Wyoming ('07 ch.75).

In 1908 the only message dealing with immigration is Governor Hughes' of New York (Jan. 1, '08, p.23). He discusses the necessity for creating a commission to investigate the condition of immigrants from foreign countries who remain in large numbers in



New York. Acting upon this recommendation the state ('08 ch.210) voted \$10,000 for the establishment of a commission of 9, appointed by the Governor, to inquire into the condition and the industrial opportunities of aliens in the State.

**Navigation. Waterways.** Many laws in this category are of purely local interest; they consider pilotage, towage, river obstructions, night lights on vessels, disposal of wrecks, improvements of wharves and docks, etc.

The awakening of public interest in inland waterways found its expression in the creation of a Waterways Commissioner in Wisconsin ('07 ch.429), with the same salary and qualifications as a Railroad Commissioner of the state; in the establishment of a Department of Inland Waterways in New Jersey ('08 ch.15); in the appointment of a Board of Commissioners of Navigation for Delaware river in Pennsylvania ('07 no.322), and in the formation of a committee of 15, in Illinois ('07 ex. sess. p.103), to investigate the rights of the state in certain navigable waters, the development of water power and the building of deep waterways. The improvement of Illinois waterways found a warm exponent and supporter in the person of Governor Deneen, whose message of October 8, 1907, (p.1-3) dwells at great length on the subject. Governor Mead of Washington (Jan. 14, '07, p.31-32) urged joint action with Oregon and with the federal government for the improvement of the Columbia river. Kansas ('07 ch.438) memorialized Congress, requesting it to provide for the improvement of the Mississippi, Missouri and Kansas rivers, and Arkansas ('07 p.1268) indorsed the proposition of the National Rivers and Harbors Congress for an annual appropriation by the United States of \$50,000,000 for the improvement of waterways.

**Mines and mining.** In 1907 the subject of mines and mining was considered in the messages of the Governors of Colorado, Minnesota, Nevada, Oregon, Utah and Wyoming. The Governor of Colorado urged (Jan. 3, '07, p.12-13) a revision of the somewhat obsolete coal mines law of the state; he expressed his belief that "many improvements could be made which would tend to prevent accidents and protect the lives of workmen, as well as being of material advantage to the operators themselves." The Governor of Minnesota (Jan. 9, '07 p.17-18) advised the organization of a state department of mining and the creation of the position of a state commissioner of mines, the department to be intrusted with the enforcement of state mine inspection and regulation laws, the

examination of the mineral resources of public lands, etc. The Governor of Nevada (Jan. 21, '07 p.3-4) suggested the creation of the office of state mineralogist whose duty it would be to scientifically examine the mining claims in the state. Other messages dealt largely with the fake mining companies floating worthless stock "for the purpose of enriching the promoter at the expense of the honest but deceived investor." In the opinion of the Governors such promoters should be deemed guilty of felony and punished accordingly. California, in a statute enacted in 1905, provided for a punishment by imprisonment for a term not exceeding two years, or a fine of not more than \$5000, or by both fine and imprisonment. Somewhat similar provisions were adopted by the American Mining Congress in 1906 in their bill which they decided to submit to various state Legislatures as a desirable measure which would, if adopted, check the promotion of illegitimate mining enterprises.

As to mining legislation, the year 1907 has to its credit 42 laws either original or amendments and revisions of existing statutes; only two laws were passed in 1908, both in Oklahoma one ('08 ch.54 art.1.) creating a State Mining Board and regulating the work in the mines, and the other ('07 ch.67 art.1), considering the transportation of natural gas by means of pipe lines.

California ('07 p.1367) and Idaho ('07 p.582) placed themselves on record as desiring the establishment of a Federal Department of Mining. Texas ('07 ch.178) and West Virginia ('07 ch.78) created State Mining Boards, with the object of providing a more efficient system of regulation and inspection of mines and mining operations. Other laws passed in 1907 deal with surveys of mining regions, with mineral exhibits, mining claims, ore analysis, etc.

## TRANSPORTATION AND COMMUNICATION

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Not in many years have the enactments of American states relating to transportation been so important as in the period covered by this review. An unprecedented number of new railroad commissions were created; the powers of many of the older commissions were substantially increased; the centralized control of local public utilities was established in at least an experimental way; there was a renaissance of maximum rate legislation of a severe and rigid kind; thoroughgoing attempts were made to solve the car service problem by means of drastic reciprocal demurrage laws; there appeared for the first time in our history a decided tendency to check the exercise of individual initiative in railroad building; the movement toward the reduction of passenger rates showed increased vigor, and other matters in great variety were covered by an unusual number of statutes. The drastic and severe quality of much of this legislation is what is apt to first force itself on one's notice. It may seem too, that in many instances there have been reversions to some of the cruder types of regulation which characterized the first attempts of the states to deal efficiently with what were new and difficult problems. But when one makes allowance for the necessarily ephemeral quality of such legislation as overshoots its mark, one will be apt to find that the budget of laws under review have as a whole contributed in no small degree to the steady progress of the state control of transportation along lines that a sort of coöperative selective experimentation has shown to be practicable and desirable. This is clearly illustrated in the development of what may be called a standard type of state railroad commission, to which the majority of the new commissions established by the legislation of these two years closely approximate. Many of the minor statutes embodying amendments of existing laws are part of a continuous pruning process by which the sporadic and irregular growth of our railroad legislation is shaped into an accumulating body of law of tested quality.



## Railroads

**New commissions.** Railroad commissions were established in 11 states. The Railroad Commission of Alabama ('07 p.135; '07 ex. sess. p.29, 43) consists of three members, elected for a term of four years. It succeeds an appointive commission, established in 1881, which, like the new commission, had rate making powers. The State Railroad Commission of Colorado ('07 ch.208) is also elective, comprising three members, who hold office for six years. The Michigan Railroad Commission ('07 no.312) is similarly constituted, except that its members are appointed by the Governor. In each of these two states the new commission displaces a railroad commissioner with limited powers—an office which had existed since 1885 in Colorado, and since 1873 in Michigan. The Michigan commission also succeeds to the powers of the Railroad and Street Crossing Board, the Crossing Board and the Board of Railway Consolidation of that state (C. L. '97 §6232, 6255). The Board of Railroad Commissioners of the State of Montana ('07 ch.37) is the first railroad commission of that state. It is elective, and consists of three members who hold office for six years. The Nebraska State Railway Commission ('07 ch.90) is an elective body, with a six year term. It was provided for by an amendment to the state Constitution adopted in 1906. The act of 1885 which created the former Nebraska Board of Transportation (composed of five state officers) had been declared unconstitutional by the Supreme Court of the state in 1901 (60 Neb. 741). The Railroad Commission of Nevada ('07 ch.44) is the first one instituted by that state. Its three members hold office for three years, and are appointed by a "Railroad Board," comprising the Governor, Lieutenant Governor, and Attorney General. New Jersey created for the first time ('07 ch.197) a Board of Railroad Commissioners with three members, appointed by the Governor for a term of six years. The two Public Service Commissions established by the state of New York ('07 ch.429) have five members each, who hold office for five years under appointment of the Governor. So far as their control over transportation is concerned they succeed the State Board of Railroad Commissioners, established in 1882, and the New York city Board of Rapid Transit Commissioners, established in 1891. It is worth noting that so long ago as 1855 New York established a short lived railroad commission. The Railroad Commission of Oregon ('07 ch.53) consists of three members, with a four year tenure. The

first members are appointed, subsequent ones are to be elected. Oregon established an elective commission in 1887, which was given power over rates in 1891, and was abolished in 1898. In 1905 the Governor, Secretary of State, and State Treasurer were constituted an ex officio board of arbitration, with power to determine and apportion joint rates in case of the failure of the roads concerned to agree. The three members of the new Pennsylvania State Railroad Commission ('07 no.250) are appointed by the Governor for a five year term. This is Pennsylvania's first commission, although there has been a Bureau of Railroads in the Department of Internal Affairs. Vermont created ('06 no.126) a Board of Railroad Commissioners of three members, appointed by the Governor and holding office for three years. This displaces a commission of limited powers, first established in 1855.

Each statute except that of New York sets certain qualifications for membership in the commission. It is generally provided that a commissioner shall not be "pecuniarily interested" in any railroad, as by stock or bond ownership or by service in the employment of a railroad. Nebraska and Oregon provide that a commissioner shall have no other occupation; Nevada exacts this of one of its three commissioners. Nebraska, New Jersey and Oregon forbid the holding of any other public office; Colorado, Nevada and Oregon forbid the holding of a position in a political party, and Michigan, Oregon and Nevada provide that not more than two shall be of the same political party. Colorado and Michigan require that one commissioner be learned in the law. Colorado also requires that one of the other commissioners shall be "a man of experience in railroad transportation and familiar with the method of adjusting rates," while Michigan insists that both of the other commissioners shall have "knowledge of traffic and transportation matters." Nevada requires of the members of the commission a "general understanding of matters relating to railroad transportation." Alabama and Oregon apportion their commissioners among their congressional districts, while New York requires that each commissioner shall be a resident of the district over which his particular commission has jurisdiction. Salaries range from \$15,000 per year in New York and \$8000 in Pennsylvania to \$1200 in Vermont; from \$2000 to \$5000 a year being more commonly paid. Not all of the more poorly



paid commissioners, however, are expected to devote their whole time to their official duties.

Each commission has a president or chairman, who in some cases receives a higher salary than the other members. He is usually selected by the commission, but the chairmen of the New York commissions are designated by the Governor. Each commission is given the power of appointing a staff, such as clerks, stenographers, accountants, inspectors, engineers, statisticians, and special agents, although the number and variety of the appointments provided for vary with the importance of the commission and the scope of its duties. The most important appointive officer of each commission is a secretary or chief clerk. In Colorado one of the members of the commission serves as secretary, while in Michigan and Montana the same qualifications are exacted in the case of the secretary as for a commissioner. The clerk of the Vermont commission is given the powers of a clerk of a Court of Record. The secretary of the Pennsylvania commission acts as its general executive officer, and is given unusually large powers. Each of the New York commissions, as well as the Pennsylvania commission, is empowered to appoint an attorney, who represents the commission in court proceedings and assists in the commission's own hearings. A regularly employed "marshal" serves papers for the Pennsylvania commission.

The field over which the jurisdiction of these new commissions extends is in most cases a wide one. Steam railroads are, of course, included in the provisions of each act. Electric railroads are also specifically placed under the supervision of each commission except that of Montana, which is, however, given power over "all common carriers." Alabama, Colorado, Michigan and Oregon exempt electric roads which operate only within the limits of particular cities or towns from the control of the commission, and Michigan further provides that there shall be no interference with any local franchises or with local control of rates. The New Jersey commission supervises only such roads, whatever the motive power, as come under the provisions of the general railroad law of that state. Express companies are subject to the supervision of the commissions except in Alabama, New Jersey and Vermont. Sleeping car companies are included in the provisions of the Michigan, Montana, Nebraska, Nevada, New York and Pennsylvania



statutes. These same states, with the exception of Pennsylvania and the addition of Oregon, also put other car companies, together with freight and freight line companies under the control of their commissions. Several of the other statutes probably accomplish the same end by a general inclusion of "all common carriers by railroad." The Alabama and Pennsylvania commissions have supervision of steamship companies and other carriers by water, and the Michigan commission's authority extends to combined rail and water routes. Telegraph and telephone companies are included in Alabama, Nebraska, Nevada and Oregon; pipe lines in Colorado and Pennsylvania, and gas and electric companies in New York. The distribution of jurisdiction between the two New York commissions is of importance in this connection. The headquarters of the commission for the first district are in New York city, and its jurisdiction embraces the counties of New York, Kings, Queens, and Richmond (Greater New York), while the commission for the second district, with headquarters at Albany, covers the rest of the state. Each commission has jurisdiction over the railroads, street railroads, and other common carriers exclusively within the district. Each commission also has control of the portions of interdistrict railroads and street railroads lying within their respective districts, so far as construction, maintenance, equipment, terminal facilities and local transportation is concerned. The commission in the first district controls the interdistrict traffic of street railroads, and the commission in the second district controls the interdistrict traffic of steam railroads.

Following the example of the interstate commerce act and of many of the previously enacted commission laws, most of the new statutes contain two general classes of provisions: (1) making certain requirements of the carriers subject to the act, and (2) granting certain powers to the commissions and imposing certain duties upon them. In Alabama ('07 p.117, 713; '07 ex. sess. p.23) and Vermont ('06 no.122) the first of these two classes of provisions are formulated in separate statutes. The Montana, New Jersey and Pennsylvania statutes contain only the second class of provisions. All of the other laws forbid rebates and other forms of personal discrimination; provide that no undue preference shall be given to any locality, and state that rates must be reasonable and that equipment

and services must be adequate. New York and Vermont specifically prohibit passes (with stated exceptions) and Nevada forbids the giving of passes to public officers. Some of the other states require that a list of the recipients of free and reduced transportation be filed annually with the commission. Lists of exceptions to the provisions against free or reduced transportation of persons or property are common. The Michigan, Nebraska and New York statutes contain long and short haul clauses, exceptions to which may be granted by the commissions, but in Nebraska this may be done only to prevent "manifest injury." A requirement found in all the statutes except the three mentioned above is that printed or typewritten schedules of rates and fares shall be posted in each station, and filed with the commission. These rates are not to be changed without 10 days (Alabama, Michigan, Oregon) or 30 days (Colorado, Nevada, New York, Vermont) notice to the commission and to the public, except, in emergency, by special permission of the commission. Most of these states also provide for the filing and publication of joint rates. Unreasonable joint rates are prohibited, but the Alabama, Michigan and Nevada statutes specify that this does not mean that joint rates may not be less than the sum of the local rates involved. It is a common and a wise provision that the form of schedule used, although determined by the state commission, shall conform as nearly as practicable to that prescribed by the Interstate Commerce Commission for interstate rates. All contracts between carriers must be filed with the commission in Alabama, Michigan and New York.

A number of the statutes refer to discrimination in the furnishing of cars as one form of illegal discrimination, except in so far as the discrimination is in favor of shippers of live stock and perishable goods. Colorado, Oregon and Vermont make special provisions as to car service. In Colorado demurrage of one dollar per day per car is charged after two days have been given in which to load or unload cars; but if the railroad company does not provide cars within three days after application is made, it is liable for reciprocal demurrage charges of \$3 per day per car in addition to damages. In Oregon the demurrage allowance is \$2 per day after 48 hours have elapsed. Reciprocal demurrage is placed at the same figure in addition to damages, but the railroads are given from 5 to 20 days to furnish



cars, depending upon the number required. In Vermont, cars must be furnished within four days, under the general penalties imposed for violation of the act in addition to damages. Insufficiency of equipment is not a defense in Oregon; it is a defense in Vermont if the railroad has complied with the orders of the commission in regard to additional equipment.

All of the newly established commissions with the exception of those of New Jersey and Pennsylvania are "strong" commissions—that is, they have the power to make rates. The New Jersey commission is to investigate accidents; keep itself informed of the condition, equipment and operation of all railroads in the state; to hear complaints in matters of service, rates and equipment, and to receive applications for such things as switch connections, crossings and the abolition of grade crossings. It may make "recommendations" to the railroads; may suggest improvements in the state laws, and is charged with the duty of seeing that the railroad laws of the state are enforced. It has, moreover, the real power of ordering better transportation facilities, adequate stations, and the like. The Pennsylvania commission has even less real power. It may make investigations, upon complaint or upon its own initiative. Provision is made for proper notice to the carrier, and securing the attendance of witnesses and the production of books and papers. The commission may then recommend a maximum rate or a proper practice to the railroad concerned, whose duty it is to notify the commission within 30 days of its intention to comply or to refuse to comply. In case of non-compliance the commission certifies the facts to the Secretary of Internal Affairs and the Attorney General, and includes them in its annual report to the Governor. The formality of the commission's investigations becomes of still less account in view of the fact that its recommendations and rulings "may be modified upon such notice and in such manner as the commission may deem proper." There is a provision of possible importance in the Pennsylvania law, relating to general hearings on proposed changes in the railroad laws of the state, on the basis of which the commission is to recommend and draft bills for new acts. The commission is permitted to employ competent experts to determine the cost and value of the property of common carriers, with reference to the necessity of proposed increases of capital stock or bonds. But the commis-



sion's certificate of necessity is not made a prerequisite to the increase of capitalization.

The Montana and Nebraska statutes differ from other commission laws of recent years in that they contemplate the establishment by the commissions of comprehensive classifications of commodities and schedules of rates. The Montana statute merely empowers the commission in this respect, and provides that rates on commodities unclassified by the commission are not to exceed the highest rates fixed for any classification established by the commission. The Nebraska law imposes upon the commission the duty of framing such a classification and schedule covering all the railroads in the state. In each state the classification is to be uniform, but rates may differ for different railroads and parts of railroads, and express rates may differ from freight rates. The Montana commission is empowered to include joint rates in its schedules, but in Nebraska the initiative in establishing joint rates is given to the carriers. Joint rates, however, may be amended by the commission, which is also empowered to intervene when the railroads fail to establish a joint rate or to agree on its apportionment. The Nebraska commission's schedules are to include passenger rates. Pending the establishment of the commission's rates, the Nebraska Legislature ordered ('07 ch.95) a 15% reduction in the rates on live stock, grain and grain products, coal, lumber and building materials. The Alabama commission's power is limited by the maximum rate laws of that state, for although the commission is empowered to change the statutory rates and classifications, it is not allowed to so change them as to increase the rates. The Nevada commission law contains a schedule of maximum ton-mile rates for the various classes of the western classification and also a schedule of maximum ton-mile commodity rates on stone and ore. The commission's power over rates is limited to reductions in the class rates, the creation of commodity rates on "articles usually so classed," and the determination of the extent (not exceeding 50%) to which narrow-gage roads may increase the specified maximum rates.

The procedure prescribed for the different commissions that have the power to amend particular rates is fairly uniform, and shows no marked departures from precedents set by earlier commission laws. If the justness or reasonableness of any rate, the adequacy of the carrier's service, or other similar

matter, be in question, investigations are to be instituted by the commission upon petition, or, under most of the laws, on its own initiative. The Colorado statute is not clear on this last point. The New York commissions may proceed upon their own motion only in matters relative to services and equipment. A few of the statutes wisely provide for the informal submission of complaints by the commissions to the carriers, with opportunity for compliance or answer before a formal hearing is ordered. In the Alabama, Michigan, Montana, Nebraska and Oregon statutes it is specifically provided that a railroad may be the complainant. Formal hearings are to be held only upon notice (usually 10 days) to the defendant railroads, and, according to some of the statutes, to the complainant. Each commission is empowered to subpoena witnesses and offer the production of books and papers. The most common provision for enforcing the powers of the commissions in this respect is through attachment proceedings for contempt in the Circuit or District Court. In New York it is further provided that refusal to answer questions or to produce books and papers is a punishable misdemeanor. If a witness refuses to obey the orders of the Montana commission, the commission applies to the court for an order compelling the giving of the testimony or the production of the books or papers in court, the commission being thus placed under the necessity of examining the witness or inspecting the documents in court. The Vermont commission, on the other hand, is itself a court of equity, with power to punish for contempt. Five of the statutes follow the federal law by providing that while no one shall be freed from the duty of giving testimony on the ground of self-incrimination, no one shall be prosecuted on account of any matter thus testified to. The orders issued by the commissions as a result of their findings in these hearings become operative in from 5 to 30 days (usually the latter period) after their service on the carrier concerned. Rates thus established are in force for one year in Nevada, and in Colorado for any period up to two years that the commission may prescribe. In other states they are in force until abrogated or set aside by the commission or by court decision.

Since the amendment of the Interstate Commerce Act in 1906 an effort has been made to so frame the new commission laws as to render the commissions less dependent on the courts; or, rather, to



give them a clearer field for action by restricting the possible methods of securing a judicial review and by putting the burden of appeal upon those dissatisfied with the orders of the commissions. While there are important differences in the provisions of the new commission laws on this point, all declare that the rates and regulations established by the commissions are to be considered *prima facie* reasonable and just until set aside in an action of a specified kind. It is very generally provided that no injunction or other writ staying the commission's orders shall issue without notice to the commission and hearing. Appeal from the commission's orders may be taken by the railroad or other party in interest to the Circuit Court or District Court, where the record of the commission's hearings is usually to be taken as partial evidence of the facts in the case. Several states provide that if new evidence is introduced by the complainant, the case is to be remanded to the commission for reconsideration. Colorado, however, provides for a court trial *de novo*. Appeal from the Vermont commission-court lies directly to the Supreme Court. Several states provide that if pending a final decision in court the carriers do not install the rates ordered by the commission, they shall give bonds to insure the proper refunds to shippers and others affected. According to most of the statutes commission cases take precedence on the court calendars over other civil causes of a different nature. The Nebraska law attempts to formulate for the courts a measure of a "reasonable rate," consisting in "the lowest rates charged by any railroad company for substantially the same service, whether in this or another state."

Disobedience to the orders of the commission is usually made a misdemeanor, and all of the statutes impose penalties for such disobedience upon carriers and their agents. Moreover in order to secure summary obedience to the commissions' orders, the commissions are empowered to ask district attorneys or Attorneys General to apply to the proper courts for writs of mandamus. The counsel of either of the New York commissions may apply for such order directly to the Supreme Court. The carrier must answer in 20 days, and the court inquiry is to be without "other or formal pleadings," and without insistence on any technical requirements. A provision of the New York statute requiring carriers to state within a time fixed by the commission whether or not an order is to be obeyed, makes it possible to proceed in this way in the case of orders "about to be violated." The Colorado law places the burden



of applying to the District Court for the enforcement of a commission order upon a "party injured by the carrier's disobedience."

The commissions are in most cases directed to enforce through mandamus or injunction proceedings not only their own orders, but also the railroad laws of their respective states. The dual administrative and judicial character of the Vermont commission is curiously shown in the provision that when it has knowledge of the violation by railroads of their charters or of statute laws, it shall bring the matter to the attention of the proper district attorney or the Attorney General, who, if he deems the matter worth investigating, is to bring it before the commission by proper complaint. The commission's powers in such matters are those of a court of equity. The Nebraska commission issues orders to the carriers respecting violations of state laws, thus converting these laws, as it were, into commission orders and providing for them the summary method of enforcement and the heavy penalties for violation attached to the orders of the commission.

Information as to the carriers' affairs may be secured by the commissions by means of investigations (in connection with which the commission may inspect books and papers), and, in some states, by means of special reports by the carriers in response to inquiries of the commissions. In this connection attention may be called to a seemingly oppressive Alabama statute ('07 ex. sess. p.25) which provides that in suits at law or equity (including appeals from commission findings) it shall be the duty of the court, on petition, to give an order to the party opposed to the carrier entitling him to examine the latter's books and papers. All of the new commission laws except those of Colorado, New Jersey and Vermont, provide for annual reports from the carriers to the commission. The blanks for this purpose are, in most cases, to be furnished by the commission, and Alabama, Michigan, Nevada, New York and Pennsylvania prescribe the use of blanks conforming in general to those used by the Interstate Commerce Commission. The Nebraska and Oregon statutes specify the things that are to be included in the annual reports. In addition to the usual financial and operating statements the railroads in those two states have to furnish information regarding the amount of land received through federal and state grants, the amount sold, the prices received, and the disposition made of the remainder. Nebraska also exacts information in respect to aid received in the form of local bonuses. Each statute except that of Nebraska makes special provision for the investigation of

accidents. Railroads are required to report immediately all accidents, resulting in death or serious injury, to the commissions, who may investigate them, but in most cases only after notice to the railroad. The findings are to be included in regular or special reports of the commissions to the governors.

The commissions in Alabama, Nebraska, New York and Vermont are authorized to require at their discretion the installation of a prescribed uniform system of accounting. Except in Vermont it is stipulated that there shall be all practicable conformity with the system enforced by the Interstate Commerce Commission. The Alabama law itself prescribes certain accounts which the carriers are required to keep, unless relieved by the commission.

The commission laws also include a great variety of miscellaneous provisions, relating to the functions of the commission with regard to such matters as crossings, switches, industrial spurs, safety devices, adequacy of equipment, and the like. A number of the statutes also contain provisions relating to the enforcement of damage claims.

**Amendments to commission laws.** Thorough-going revisions of the laws relating to railroad commissions were made in Georgia ('07 p.72), Indiana ('07 ch.241) and Washington ('07 ch.226). The Georgia commission was established in 1879, and has had an important and interesting history. Its membership is now increased from three to five (elected), none of whom is to be "directly or indirectly interested in any mercantile business or any corporation that is controlled by or that participates in the benefit of any pool, combination, trust, contract or arrangement that tends to increase the cost . . . of carriage, heat, light, power, or of any commodity . . . sold to the public," and this "without reference to his experience in law or railway business." The commission elects its own president, who is to give his entire time to this office, and it may employ one or more rate experts. Its jurisdiction is enlarged to cover street railroads, docks and wharves, terminals, cotton compresses, telegraph and telephone lines, and gas and electric plants. It may hear complaints, but is specifically authorized to perform its duties on its own initiative. Its general power over rates and services is reaffirmed; it is authorized to prescribe uniform systems of accounts for railroads and other corporations, and it is given control of increases in capitalization.

The Indiana commission was created in 1905. The original commission law, although in many respects similar to other recent



statutes creating "strong" commissions, was less liberal than most of them in its bestowal of powers upon the commission. Complaints may now be received from others than persons "injuriously affected," and hearings may be held on the initiative of the commission. The power of the commission over car distribution and delivery, train service, and demurrage, is especially emphasized. The commission may make regulations regarding joint rates, and interchange of traffic, and may even require the physical connection of steam and electric lines. One commissioner may conduct hearings or investigations and report the same to the commission for action. Provisions relative to annual reports from carriers, special reports of accidents, publicity of rates, the construction of industrial spurs, and minor matters bring the Indiana law into close conformity with those of other Middle Western States.

The Washington commission also dates from 1905. The amendatory statute requires the commissioners to reside at the state capital, extends their power over rates to include transportation over two or more roads and charges for trackage, sidings and special facilities, together with demurrage and reciprocal demurrage. With respect to judicial review of the commission's findings it is provided that the action shall be held and determined upon the evidence introduced before the commission. Complaints are not to be dismissed on account of the absence of direct damage to the complainant. If an appeal to a court is not taken within two weeks (as provided) petition for rehearing may be made to the commission within six months, if changed conditions or unanticipated results can be shown. The employment of an expert rate clerk and statistician and a civil engineer is authorized.

The jurisdiction of the Kansas commission is extended ('07 ch.268) over electric lines operating in more than one county, and sleeping car and private car companies. A novel provision of the same statute is that the commission may (without a hearing) order such changes in rates as it deems proper. In case of noncompliance the attorney for the board lodges a formal complaint, which leads to a hearing. It is specified that no injunction or judicial order restraining the enforcement of a commission order shall be granted except on hearing, after at least five days notice to the commission. The reports of the commission are to be biennial (formerly annual) and are to contain specified financial and statistical information. A North Carolina statute ('07 ch.469) gives additional powers to the Corporation Commission of that state. This body, whose jurisdic-



tion already includes banks, loan and trust companies, and building and loan associations, as well as carriers, is now empowered to supervise telegraph and telephone companies and regulate their rates. Its powers to make regulation in matters of public safety, to require block signal systems, to abolish grade crossings, and to regulate train service and connections are made more definite and complete. Complaints as to discrimination or unreasonable charges may now be filed by communities.

The Mississippi commission ('08 ch.87) is given authority over car service associations. It may ('08 ch.89) require the connection of railroads paralleling or extending to within one mile of each other. It may, upon application ('08 ch.88) require the construction of spur tracks at the expense of the applicant, and may ('08 ch.91) limit the extent to which railroad trains and railroad tracks shall be allowed to block public highways. In the trial of cases brought for violation of rates fixed by the same commission, it is now provided ('08 ch.81) that it may be shown in defense that the rates were unreasonable and unjust to the carrier. At a general election in April 1908, Louisiana adopted certain amendments to the state Constitution which were proposed by the Legislature of the preceding year ('07 no.14, 15). Sleeping car companies were put under the control of the commission, and its authority is to cover not only transportation, but all matters relative to the service given by common carriers. Rates fixed by the commission are to remain in effect until set aside by the commission or by the final judgment of a court. If, pending an appeal to a court, a carrier fails to put into effect rates fixed by the commission, and if the commission is sustained in the court, the carrier incurs a penalty of from \$10 to \$50 per day for such delay. Furthermore, the Legislature may now enlarge the powers of the commission without its own recommendation to that effect, which was formerly a prerequisite. The Louisiana Legislature also ('08 no.199) increased the powers of the commission. It may now order the building of stations, the installation of railroad connections and private spurs, make car service regulations, and control the rates and service of telegraph, telephone and express companies. The Massachusetts commission, which was given supervisory powers over express companies in 1906, is now ('08 ch.599) directed to obtain annual reports from such companies relative to their contracts with other transportation companies, together with special reports on other matters. The commission may hold hearings in regard to the rates and services of express com-

panies and may recommend changes. The Minnesota commission may not only prescribe a uniform system of accounts, but may also ('07 ch.410) "designate from time to time to what accounts any items shall be charged." The Tennessee commission may ('07 ch.390) require the construction of station buildings. The Texas commission is empowered ('07 ch.119) to establish temporary freight and passenger rates in case of emergency.

Amendments in Arkansas ('07 no.422), Iowa ('07 ch.111) and Ohio ('08 p.128) relate to joint rates. The Ohio statute merely gives the commission the same power over joint rates that it has over single line rates, and authorizes the commission to apportion them if the railroads concerned fail to agree. The Arkansas statute provides that connecting lines, if under one management, or if joined in interest through stock control are to be considered continuous lines, over which rates are to be computed on a continuous mileage basis. The commission is given power over such rates. The Iowa commission is required to establish schedules of joint rates, after advertised hearings. In making and revising these schedules the commission is to take into account the rates on single lines for like distances, the joint rates on interstate traffic, and the increased cost over single line shipments. The same statute provides that shippers may require that freight be routed via a connecting line, if the distance is less than by a single line. Electric interurban lines are to be considered for this purpose as "connecting lines." Arkansas ('07 no.422) and Iowa ('07 ch.108) also authorize their respective commissions to investigate interstate rates; notify the carriers of violations of the federal law, or (in Iowa) "discriminations against the interests of the state," and, if necessary, to appeal to the Interstate Commerce Commission. The Kansas commission is empowered ('07 ch.269, 270) to prosecute cases before the Interstate Commerce Commission at the expense of the state, and to intervene in any case before the federal commission in which the interests of Kansas shippers are affected. Where carriers in Florida have become indebted to a large number of persons through disobedience of the commission's orders (as, for example, by overcharges) the commission may sue for a mandatory injunction compelling payment.

Several amendments relate to judicial review. In Minnesota commission cases appealed to the courts were formerly



tried de novo. Now ('07 ch.167), even when the carrier appeals, the complainant before the commission becomes the complainant before the court, and the carrier remains the defendant. No further pleadings than those filed before the commission are necessary. The findings of the commission are to be prima facie evidence not only of the facts, but of the reasonableness of the rates found, the burden of proof being placed on the appellant. Appeals must be taken within 30 days. Mississippi ('08 ch.86) provides for a direct appeal from the commission to the Supreme Court when nothing except the power of the commission in the premises is in question. Missouri ('07 p.386) provides that the orders of the commission are not to be suspended during appeal, and imposes a heavy per diem penalty on carriers failing to give bond to secure all penalties that may accrue if the court decision be adverse to them. The orders of the commission are made prima facie evidence of the facts. South Dakota ('07 ch.207) puts the burden of proof on the party claiming that the orders of the commission are invalid.

Upon receiving a petition from only 15 citizens the Arkansas commission ('07 no.338) is compelled to make within 30 days a personal investigation of local train service, stations, sidetracks etc., and to take evidence and make orders respecting the same. A Mississippi statute ('08 ch.83) requires that one or more members of the commission spend a whole day, at least once a year, in each county through which a railroad runs. They are to inquire into violations of law, the transportation needs of communities, and hear complaints. Ten days notice must be given of each visit. The commission is especially charged to "exercise its power in the direction of the cheap transportation of agricultural products within the state." Any one member of the Minnesota commission may ('07 ch.305) conduct a hearing, except in a question involving the reasonableness of rates. Upon the approval of his report it becomes the decision of the commission. The North Dakota commissioners are to hold five regular sessions annually ('07 ch.213) for the purpose of hearing complaints. Dates and five different places of meeting are specified in the statute. Special sessions are to be held at the call of the Governor, but 10 days public notice must be given.

The powers of the Railroad Commission of Wisconsin were



extended over telephone, water, heat, light and power companies, and urban street car companies by the Public Utilities Law of that state ('07 ch.499). This statute, the New York commission law, and the changes in the status of the Georgia commission, previously described, mark a unique departure in their centralization of the control of business affected with a public interest. The Wisconsin law is more stringent than the New York statute in its provisions for uniform accounts, publicity of accounts, and against discrimination in rates, so far as these things relate to local public utilities. Another Wisconsin statute ('07 ch.582) extends the application of the requirements of the original commission law ('05 ch.362) to all street and interurban railway companies and telegraph lines. The same statute gives the commission power to make and enforce rules as to car service and freight service and to test the weights and scales used in freight service. A new and *ex post facto* method of correcting exorbitant rates is provided. Within six months after the delivery of freight at destination any person aggrieved may complain to the commission that the charge is exorbitant. If, on hearing, the rates are found to have been exorbitant, the commission prescribes a reasonable rate. The carrier may refund the difference, otherwise the party aggrieved may sue for recovery in the courts, in which the commission findings are to be *prima facie* evidence of the facts. No penalty is imposed upon the carrier who makes such a refund, either voluntarily or under court orders. Under another provision of the same amendatory law the Wisconsin commission may require any corporation authorized to transact business in Wisconsin to furnish a complete list of its stockholders with the amounts of their holdings. The present status of state railway commissions in the United States (counting the two New York commissions as one) and the changes made by recent legislation are indicated in the following table:

	1904	1906	1908
Number of commissions.....	31	33	41
Possessing power over rates.....	21	25	32
Appointed by Governor.....	11	12	15
More than one member.....	25	29	38

**Valuation.** The Kansas commission was authorized ('07 ch.268) to employ experts to make a physical valuation of railroads in the state, including construction and reproduction

costs. The Georgia commission ('07 p.72) may determine the costs and "present values" of the properties of all corporations under their jurisdiction. The South Dakota commission ('07 ch.211) is to ascertain the "cash value" of all railroads in the state. Both the Georgia and the South Dakota commissions may employ experts in this work. The inspector regularly employed by the Florida commission to inspect the condition of roadbeds, buildings and equipment ('07 no.27), is also to estimate their reproduction cost. The new Oregon commission is authorized ('07 ch.53) to ascertain the costs of the construction and equipment of railroads and also the cost of replacement. The Nebraska commission law ('07 ch.90) requires that the commission shall ascertain the cost and "actual present cash value" of railroads and their equipment, together with the "estimated value" of their other property (exclusive of granted lands, which are otherwise provided for). The statute establishing the Washington commission ('05 ch. 81) contained provisions for physical valuation, which are now amplified in a general amendatory law ('07 ch.226). The commission is to ascertain not only the original cost of construction and equipment, but also the amount since spent in permanent improvements (classified as charged to construction account or to operating expenses), the present as compared with the original cost of construction, the cost of reproducing present conditions, the present value of outstanding stock and bonds, and the "relative value of the use of the railroads" in intrastate as compared with interstate business. The Wisconsin Public Utilities Law ('07 ch.499) makes a physical valuation of the properties concerned the basis of the commission's regulation of local public utilities. Previous statutes of that state provide for the physical valuation of railways by experts employed by the state Tax Commission.

**Rates. Charges. Weights.** The most notable maximum rate legislation of recent years was enacted in Alabama. After providing ('07 p.80) as a temporary measure that rates in force January 1, 1907, should not be increased, the Legislature, under the leadership of Governor Comer (formerly a member of the Alabama Railroad Commission), not only revised the commission law, but enacted a series of drastic statutes with reference to rates and services. The most important of these ('07 p.209) assorted the railroads operating in Alabama into four classes,



established a freight classification embracing 6 numbered and 16 lettered classes, and fixed a closely graduated distance tariff for class rates, together with special commodity rates for fertilizers, cotton and cotton by-products. Another statute ('07 p.207) provided that violations of the maximum rate law should be punished by imprisonment and heavy fines. A separate act ('07 p.285) established procedure for judicial review of statutory rates substantially like that provided in the commission law ('07 p.135). Furthermore, it was provided in the commission law that any foreign corporation which should seek to attack in a federal court rates fixed by the commission or by statute should ipso facto lose its license to engage in business in the state. One important railroad secured from the federal court an injunction restraining the enforcement of the rate laws (including a statute fixing passenger rates at  $2\frac{1}{2}$  cents per mile). As a result the railroad's license was canceled and it was forced to secure the withdrawal of the injunction. But a decision of the United States Circuit Court, declaring unconstitutional the section of the commission law which provided for the forfeiture of state licenses opened the way for further injunctions. The Legislature was speedily convened in a special session (November 1907), some parts of the prior legislation were repealed, and, among other things, a new maximum rate law was enacted ('07 ex. sess. p.91, 101, 117, 125, 133, 143, 152). As before, the railroads of the state are divided into four classes, the railroads in each class being allowed to increase the standard maximum rates by 5, 20, 25 and 50% respectively. The rates on some of the more important commodities, however, are made "without percentage," while on a few commodities the percentages are varied from those stated. Rates are provided for eight "groups" of commodities, but most of these groups contain several subdivisions. The rates increase with distance, but in a "tapering" fashion. For example the standard rate on cotton in bales is 25 cents per hundred weight for 100 miles and 35 cents for 200 miles. By the terms of another statute ('07 ex. sess. p.58) imprisonment is no longer part of the penalty for violation of the maximum rate law, and the maximum fine is reduced from \$1000 to \$500. This reduction was part of an effort to make the rate laws "injunction proof." A permanent injunction, however, was soon issued by the United States Circuit Court, restraining en-



forcement of the rates until judicial investigation could be made as to their alleged confiscatory nature.

Minnesota ('07 ch.232) established maximum rates on certain commodities (including agricultural products, lumber and live stock) not included in the western classification. The Railroad and Warehouse Commission of Minnesota had previously (Sept. 1906) established a distance tariff covering the classes of the western classification. Violations of the commission's orders are punishable by fines of from \$2500 to \$5000 for the first offense and from \$5000 to \$10,000 for each subsequent offense (R. L. '05 §1987.) The Minnesota two cent a mile passenger rate act ('07 ch.97) imposed as penalty for violation a maximum fine of \$5000 or imprisonment of not over five years. The commodity rate law just cited made officers, directors and agents liable to imprisonment in county jails for not over 90 days. Upon a bill filed by residents of other states who were stockholders in a railroad operating in Minnesota, the United States Circuit Court issued an injunction restraining the railroad company from putting into effect the statutory commodity rates, and also enjoined the Attorney General of the state from instituting an action to enforce the act. Upon the noncompliance of the Attorney General with this order he was committed for contempt of court. Habeas corpus proceedings were then instituted in the United States Supreme Court. The ground taken by the carriers was that the commodity rates, at least when superadded to the requirements of the commission's orders and the passenger rate law, were very possibly confiscatory, and that the excessive penalties attached by the three statutes prevented all access to the courts, thus conflicting with the "due process of law" clause of the 14th amendment to the federal Constitution. In denying habeas corpus, the Supreme Court said (*Ex parte Young*, 209 U. S. 123 [1908]): "We hold that the provisions of the acts relating to the enforcement of the rates either for freight or passengers, by imposing such enormous fines and possible imprisonment as a result of an unsuccessful effort to test the validity of the laws themselves, are unconstitutional on their face, without regard to the question of the insufficiency of these rates." Rate laws, it was pointed out, differ from other laws creating misdemeanors or felonies, in that these latter relate to subjects over which the jurisdiction of the Legislature is complete. In the case of the establishment of rates without

hearing, the validity of the rates necessarily depends upon whether they are high enough to permit at least some return upon the investment, and "an inquiry as to that fact is a proper subject of judicial investigation." The main point at issue, however, was the alleged conflict of the orders of the Circuit Court with the 11th amendment to the federal Constitution, prohibiting suits against a state by citizens of another state. But the Supreme Court decided that such immunity did not cover an individual officer of a state when seeking to enforce an unconstitutional act of the Legislature. On this last point Justice Harlan rendered a strong dissenting opinion. With respect to the several points involved the decision is of the first importance.

Kansas ('07 ch.278) ordered a 15% reduction in rates on agricultural products. Missouri ('07 p.188) established minimum carloads and maximum mileage rates for certain fruits. The same state ('07 p.171) established new tapering distance carload rates for classes D to I of the western classification. Commodity rates are provided for stone, wood and brick. Railroads in Missouri may not ('07 p.188) exact an extra charge for transporting freight over a bridge. In North Carolina ('07 ch.217) the Corporation Commission may not establish joint rates that exceed 75% of the sum of locals in the case of roads where a joint rate less than the sum of the locals is now prescribed or that exceed 85% of the sum of the locals in other cases. Railroads less than 125 miles in length participating in joint hauls are not affected by the statute. North Dakota ('07 ch.51) so revised the statutory rates on coal (R. C. '05 §4395) that together with a closer graduation by distance, there is also a closer approach to a distance tariff. Short distance rates are reduced and long distance rates increased. Pennsylvania ('07 no.313) prohibits narrow-gage roads over 20 miles long from charging rates higher than those of connecting roads. The temporary 15% reduction of freight rates in Nebraska ('07 ch.95) and the maximum tariff of the Nevada commission law ('07 ch.44) have already been mentioned. Nevada also ('07 p.446) urged upon her Senators and Representatives in Congress and upon the Interstate Commerce Commission the establishment of an "intermediate terminal point" in Nevada by each of the interstate roads traversing it. Oklahoma ('08 ch.24 art.1) specified that coal should be weighed at proper places by carriers



and made them liable for shrinkage of over 1% in weight on a haul of 150 miles.

**Car service.** Unusually drastic regulations with respect to car service were made in a number of states. Alabama ('07 p.224) requires carriers to furnish up to 3 cars on 3 days notice, 3 to 10 on 5 days notice, and as many as 25 on 10 days notice. More than this number need not be furnished one shipper at one time. Penalties (reciprocal demurrage) are placed at \$1 per day per car, with a maximum of \$10 per car. A similar penalty is imposed for failure of the carrier to forward freight at an average speed of less than 50 miles per day, for failure to give notice to consignee within 24 hours after arrival and for failure to place cars at proper places for unloading within the same time limit. Corresponding provisions are made for less than carload freight. Demurrage charges equal in amount to the reciprocal demurrage charges may be imposed by the railroad for failure of shippers and consignees to load or unload promptly, 48 hours "free time" being given before the demurrage charges accumulate. Demurrage may also be charged on account of delays due to the lack of proper shipping instructions or to improper loading, and there are provisions for storage charges on package freight. Bad weather increases the "free time" of shippers or consignees living at a distance from the railroad. No demurrage is charged on private cars on private sidetracks, if the track owner owns the cars, or is given a release by the car owner. Moreover, special contracts abrogating these rules may be made in any case, but these may be canceled by either party on 10 days notice. To apply for cars without the intention of using them is made a misdemeanor. Sundays and legal holidays are not to be included in computing either demurrage or reciprocal demurrage. Another Alabama statute ('07 p.699) permits the railroad to store carload freight at the expense of the owner or consignee after demurrage to the amount of \$5 has accumulated. Any of these rules may ('07 p.779) be modified by the Railroad Commission.

An Arkansas statute ('07 no.193) is similar, even in most of its details, to the Alabama law. The charges are larger, however—\$5 per day per car—and there is an absolute requirement that railroads shall furnish any number of cars to shippers within six days after application is made. Additional free time is given to the railroads on account of transfer points and allow-



ance is made for the enforced legal delays in forwarding shipments of live stock. Detailed rules carrying out the provisions of the act are to be formulated and published by the railroad commission. The act purports to cover the furnishing of cars for interstate shipments.

Indiana ('07 ch.231) enacted the so called "Shippers' Bill," which applies to all common carriers whose income from their freight service is at least one third of their total revenue. The act requires the maintenance of a sufficient number of freight cars and locomotives, and the distribution of cars among all applicants without discrimination save in the case of live stock or perishable products. Loaded cars, including those received from connecting lines, are to be forwarded toward their destination at a rate of not less than 50 miles per day. Allowance is made for Sundays and legal holidays, and 24 hours are allowed for the terminal at origin and 24 hours for each terminal passed through. The penalty for delay of \$5 per day per car may be deducted by the consignee from the freight charges. In the case of less than carload shipments 48 hours are allowed for each terminal and the per diem penalty is fixed at 25% of the freight charges. Railroads at terminal points are required to receive cars for delivery from connecting roads and place them at private or public delivery tracks within 24 hours, a reasonable switching charge being allowed. The Railroad Commission may grant relief from the operation of this section when it appears that the facilities of the carrier are only sufficient for its own business. An important provision relates to car service records. These are to be kept in bound books at each billing station, in forms prescribed by the commission. The records must show the date of application, number and kind of cars wanted, destination and date of delivery, together with such additional facts as the commission may require. Two days only are given the carrier in which to furnish cars, after which reciprocal demurrage is charged at the rate of \$1 per day per car. To escape the forfeiture a carrier must show to the satisfaction of a court or jury that it "did not have the cars under control at the time," and that "for a reasonable time it had tried to supply its line with the necessary car equipment." On coal cars, reciprocal demurrage is fixed at \$2 per day, and the commission is to so regulate their distribution that "to each mine shall be secured the maximum amount of working time to which it is entitled in comparison with other mines, taking into account

capacity, output, shipping orders, and available equipment." In all cases, the carrier is liable for damages for failure to furnish cars, over and above the amount of the reciprocal demurrage. If failure on the part of carriers to provide facilities as required by the act results in "material injury to the citizens or industries of any part of the state," the commission may, after hearing, institute temporary and emergency rates; control routes of shipment, and suspend certain traffic in favor of other traffic. For these and other purposes connected with the enforcement of the act the commission may apply to the courts for the appointment of operating receivers, with the general powers of railway receivers.

Minnesota ('07 ch.23), North Dakota ('07 ch.200), South Dakota ('07 ch.216) and Washington ('07 ch.142) also enacted car service laws. In Minnesota cars must be furnished in two days at terminal points, and in three days at intermediate points. If more than three cars are required by the shipper one day is added for each extra car. In North Dakota cars (if not more than two) must be furnished in three days, but only if 20% of the freight charges is advanced. South Dakota gives the carrier three days in which to furnish one or more cars. Washington requires that any specified number of cars, less than 10, be furnished on six days notice. Reciprocal demurrage is fixed at \$1 per day per car, except in North Dakota, where it is double this amount. The penalties apply not only to the supplying of cars, but also, in Minnesota, South Dakota and Washington, to failure to start loaded cars toward their destination promptly; to failure to forward cars received from connecting roads promptly; to failure to forward cars at an average speed of less than 50 miles per day; to failure to notify consignee of arrival; and to failure to deliver cars promptly to usual place of unloading. The Washington and North Dakota statutes also contain provisions relating to the forwarding of package freight. In North Dakota both carload and less than carload freight, if delivered to a station four hours before departure of a local freight train, must be sent by that train, under a per diem forfeit of 10% of the freight charges. If freight reaches its destination more than 60 hours later than the scheduled time the consignee may refuse to accept it and may recover its value together with damages from the carrier. Minnesota, South Dakota and Washington also established demurrage charges, 48 hours free time being given shippers and



consignees. In South Dakota, if cars are not loaded in 48 hours the railroad company may consider them released and collect \$5 per car; if the railroad company fails to provide cars at specified time and place, the shipper may elect not to take them, and may collect \$5 per car from the railroad company; if the shipper desires to release cars ordered and received he pays demurrage on them for the whole time for which they are at his disposal. The Washington law is in most particulars like the Alabama and Arkansas statutes mentioned above.

Texas ('07 ch.184) gives the railroad commission of that state power over car service, car exchange, demurrage, reciprocal demurrage, etc., within the state. The statute further provides that connecting roads shall send cars through without unloading, but that a railroad delivering loaded cars to another railroad can demand that the same number of cars be turned over to it at the junction point in a reasonable time, in addition to which its own cars must be returned. This part of the statute seems to constitute an attempt to make the conditions of car supply in Texas as independent as possible of the exigencies of interstate traffic. An earlier Texas law dealing with the same subject (R. S. §4497-5000) had, in 1906, been declared unconstitutional by the federal Supreme Court (201 U. S. 321). The new statute makes carriers failing to comply with the car-service orders of the commission liable for damages as well as for a penalty of \$100 a day where wilful or gross negligence can be shown. The statute itself requires the maintenance of reasonable equipment and the furnishing of cars with reasonable promptness. Periods varying from three days in the case of applications for five cars or less up to eight days in the case of 10 or more cars are declared to be *prima facie* reasonable. Another statute ('07 ch.155) empowers the Texas commission to order railroads to purchase motive power and rolling stock.

North Carolina ('07 ch.217) requires that cars shall be furnished within four days after application and places reciprocal demurrage at \$5 per day per car. For failure to load within two days a forfeit of \$5 may be assessed on the shipper, but this is not made a *per diem* charge. Kansas ('07 ch.275) amended her car service law ('05 ch.345) so that the fact that the statutes require railroads to furnish cars in a specified time after application does not release them from the obligation of furnishing them in less time, if the less time is asked for and is reasonable.



Railroad companies in Kansas must ('07 ch.277) furnish sufficient double-decked cars for the shipment of sheep. If such cars are not furnished only one half the regular carload rate can be charged. Georgia ('07 ch.84) allows a railroad only 24 hours after application in which to furnish refrigerator cars for the transportation of perishable products (fruits and melons). Otherwise the carrier becomes liable for the market value of the products, less cost of carriage and expense of selling. A shipper who fails to accept cars ordered may be required to pay \$10 per car and the cost of the initial icing.

Missouri ('07 p.177) charged her railroad commissioners with the enforcement of her car service law ('05 p.109). The free time given for loading is to be extended when car deliveries are bunched in excess of loading capacity. New Jersey ('07 ch.256) and Pennsylvania ('07 no.179) limit the maximum demurrage charge to \$1 per day, after three days (New Jersey) and two days (Pennsylvania) of free time. Pennsylvania further stipulates ('07 no.259) that railroad employees who have charge, directly or indirectly, of the distribution of cars, shall not have an interest in any operated coal property or in the stock of any mining or manufacturing company along the line of their railroad. Kansas ('07 ch.279) forbids railroads to coöperate in establishing or collecting demurrage charges, Idaho ('07 p.579) and Oregon ('07 p.522) asked Congress for federal legislation governing car service. Massachusetts ('08 r.111) ordered the Board of Railroad Commissioners to investigate the problem of freight car service. The provisions relating to car service in the laws establishing commissions in Colorado, Montana and Vermont have already been described.

**Train service. Connections.** The railroad commissioners of Connecticut may, ('07 ch.261) after hearing on petition of the local authorities, order passenger trains to stop at any station. Missouri ('07 p.180) requires that at least one daily passenger train shall stop at all stations, and ('07 p.185) that stations shall be provided at all junctions with branch lines at least 18 miles long, where all passenger trains shall stop. In North Dakota ('07 ch.200) railroads must operate at least one passenger and one freight train in each direction each business day, except that by permission of the railroad commissioners one mixed train may be substituted. Freight trains in Kansas ('07 ch. 274) having a caboose (except main line live stock trains) must carry

passengers. Such trains are not required to stop at all stations, and the carrier may limit its liability for accidents to cases of wilful negligence. It is unlawful for hotels, restaurants, or medical practitioners to solicit business on trains in Arkansas ('07 no.236).

The Railroad Commission of Georgia ('08 p.67) is authorized to order railroads entering the same municipality to connect their tracks. The Railroad Commission of Iowa ('07 ch.106) may require track connections. The Minnesota commission ('07 ch.27) has the same power in case the tracks of the railroads in question are not more than 500 feet apart. North Dakota railroads must ('07 ch.211) install wyes or other suitable connections for exchange of traffic at all crossings of two lines. This was formerly a matter subject to the discretionary orders of the railroad commissioners (R. C. '05 §4392). Oklahoma ('08 ch.18 art.2) authorizes her corporation commission to order, after investigation, the physical connection of two or more roads, and may specify that switching and transfer facilities and union depots be provided. In South Dakota ('07 ch.212) the commission may order the installation of similar facilities at junction points, and, if the carriers fail to agree, may apportion the cost between them. The railroads are to establish through joint rates at the request of shippers or the commissioners. Failing this, the commission may establish such rates and, if necessary, may apportion them. It is to take into account the "average joint rates charged by the same companies on interstate shipments."

**Stations.** The Railway Commissioners of Kansas ('07 ch.271) are to designate freight "terminal points," at which railroads are to maintain proper freight depots and terminal facilities. Rates between such points and all other stations in Kansas must be published. Exceptionally heavy penalties are attached to violations of this act. The Railroad Commission of Iowa ('07 ch.106) may require that shelter be provided at any point where two railroads have track connections. In South Dakota ('07 ch.214) it is unlawful for a railroad to abandon a station, remove a depot, or withdraw an agent without the consent of the railroad commissioners.

South Carolina ('08 no.485) requires that bulletins of late trains be posted every 15 minutes at all stations where telegraph operators are on duty. North Dakota ('07 ch.201) re-



quires blackboard bulletins of the time of arrival of all passenger trains. In Idaho ('07 ch.347) the time of arrival of delayed trains must be posted in stations and given to central telephone exchanges. In Arkansas ('07 no.146) criers must be provided at all union stations to announce the departure of trains. Montana ('07 ch.182) and Wisconsin ('07 ch.614) require that railroads shall install telephones in stations. The Montana law applies to telegraph and express companies, as well.

Separate waiting rooms for men and women must be provided in stations in all Minnesota towns of 400 or more inhabitants ('07 ch.54). In Florida ('07 no.24) and Oklahoma ('07 ch.15 art.1) separate waiting rooms must be provided for white and colored passengers. The Oklahoma statute also requires separate cars or separate compartments and applies to street railroads as well as steam railroads.

Minnesota ('07 ch.357) transferred track scales from the supervision of state sealers of weights and measures to that of the Railroad Commission. Nebraska ('07 ch.88) requires the installation of track scales at division points and at such other stations as the railway commission may order. Carload freight is to be weighed at destination or nearest point at request of consignor or consignee. An Iowa statute ('07 ch.113) embodies similar provisions. In Arkansas ('07 no.429) track scales are to be maintained at all stations where 100 or more cars of coal, corn, or cotton seed are received annually. Cars are to be weighed at destination on request of consignee.

**Industrial sidetracks.** Railroad companies in Massachusetts ('07 ch.585) are on application, to construct and operate on reasonable terms switch connections with sidetracks owned by shippers, and, when it is reasonable, are to build sidetracks on their own property. On refusal an order may issue from the railroad commissioners. Nebraska ('07 ch.89) provides for actions in the district courts to compel the construction of elevator sidetracks. In Washington ('07 ch.223) condemnation rights are granted for the construction of industrial spur tracks by railroads. The length of the right of way that may be expropriated is limited to five miles in the case of unimproved lands, one mile if the land is improved, and one fourth mile in municipalities. Under the provisions of a Wisconsin statute ('07 ch.352) a railroad may, except in cities of the first class, build an industrial spur track not over two miles long when "prac-



tically indispensable to the successful operation of the industry or enterprise." On complaint orders to this end may be issued by the Railroad Commission. The cost of right of way and construction is to be paid by the establishment served. Under former laws railroads had power (S. '98 § 1831) to build industrial spurs of any length, while owners of establishments located within one half mile of railroad or sidetrack could ('05 ch.386) construct spur tracks at their own expense. Amendments ('07 ch.262, 265) render the consent of city authorities necessary to building spurs along or across streets or alleys. A South Carolina statute ('05 no.480) which provided for the construction of industrial sidetracks at the expense of the establishments served, but which further provided that the amounts expended should be refunded by the railroads by means of 20% deductions from freight bills was declared unconstitutional by the Supreme Court of South Carolina (*Mays v. Seaboard Air Line Ry.*, 56 S. E. 30 [1906]) as taking private property for a use which is not public.

**Live stock.** Fewer statutes relating to the conditions of transportation of live stock were enacted than in other recent years. By the terms of a Kansas statute ('07 ch.276) live stock must be forwarded at an average speed of at least 15 miles an hour, exclusive of stops for watering and feeding. In case of noncompliance, the carrier is liable for damages on account of decrease in market prices, loss in weight, etc. In Iowa ('07 ch.115) the Railroad Commission may regulate the conditions of the transportation of live stock, under the general principle that it is to be moved "at the highest speed consistent with safety and with the reasonable movement of general traffic." Illinois ('07 p.264) forbids the confinement of live stock in cars for more than 36 consecutive hours. Idaho ('07 p.579) memorialized Congress for the enactment of a federal statute compelling the transportation of live stock and perishable freight at an average speed of not less than 15 miles an hour.

**Discrimination.** The prohibition of discriminations contained in the new statutes establishing railroad commissions have already been noted. Florida ('07 no.26) prohibits rebates and special rates. An offending corporation may be fined from \$1000 to \$25,000 and its officers or agents imprisoned for not over five years. Two Pennsylvania statutes ('07 no.253, 255) apply to railroads and canal companies, and prohibit all discrimination in rates or services. These statutes are intended to enforce sections 3 and 7 of article 17

of the state Constitution. In Oklahoma ('08 ch.13 art.3) it is a misdemeanor knowingly to charge more than "regular rates" or to conceal schedules. In Washington ('07 ch.187) overcharges bear interest at 8% until refunded. Vermont railroads ('06 no.124) may not discriminate between telephone companies in respect to terms and facilities for operating in depots and offices. A Pennsylvania statute ('07 no.252) was evidently suggested by the "commodity clause" of the federal interstate commerce act amendment of 1906. Common carriers are not to mine or manufacture commodities for transportation over their own lines. But mining or manufacturing corporations may transport their products on their own railroads or canals, if these do not exceed 50 miles in length. Louisiana ('08 no.111) forbids common carriers to disclose facts in reference to the business or consignments of shippers to their competitors. The same state ('08 ch.195) instructed its Attorney General to investigate the alleged discrimination of the Texas Railway Commission against Louisiana. If necessary he is to institute proceedings before the Interstate Commerce Commission or other federal tribunal. South Carolina ('07 no.837) appointed a joint legislative committee of six members to investigate alleged railway discriminations against the city of Charlestown.

**Passenger rates.** The legislative activity in securing lower passenger rates which began in 1906 was continued during the period under review. The maximum rate was fixed at two cents a mile in Illinois ('07 p.476), Indiana ('07 ch.42), Minnesota ('07 ch.97), Missouri ('07 ch.180), Nebraska ('07 ch.92), Pennsylvania ('07 no.52), West Virginia ('07 ch.41) and Wisconsin ('07 ch.654). The West Virginia statute does not apply to railroads less than 50 miles long. In Alabama ('07 p.104), North Carolina ('08 ch.144), North Dakota ('07 ch.199) and South Dakota ('07 ch.213) two and one half cents per mile was established as the maximum rate. Independent railroads whose mileage in North Carolina is less than 100 miles are permitted by that state to charge three cents a mile. The Missouri two cent rate does not apply to independent railroads less than 45 miles long, which are permitted to charge four cents. North Dakota ('07 ch.199) requires that 1000 mile tickets, interchangeable among the adult members of a family, shall be sold for \$20. Alabama ('07 ex. sess. p.60, 66, 87) endeavored to secure a rigid enforcement of her passenger rate statute, by making it unlawful to prevent parties from boarding trains at stations where tickets are not sold at the prescribed rates, by authorizing the



recovery of damages by any person who is ejected from any passenger train for refusal to pay more than the prescribed rate, and by making railroads liable in damages for refusal to carry passengers at the prescribed rate.

Arkansas ('07 no.8) established a two cent a mile passenger rate for railroads over 85 miles long. On railroads less than 15 miles long five cents a mile may be charged, and on roads of intermediate length, four cents a mile. In Michigan ('07 no.54) railroads whose gross earnings from passenger traffic are more than \$1200 per mile are compelled to make a two-cent rate; other roads may charge three cents. Branch lines are included, so that the rate is uniform on all lines controlled by the same company. All railroads in the upper peninsula of Michigan are permitted to charge three cents a mile. In Iowa ('07 ch.102) maximum passenger rates of two, two and a half, and three cents per mile respectively are enforced in the case of railroads whose gross earnings per mile are over \$4000, between \$3000 and \$4000, and under \$3000. All of the statutes provide for half fare for children under 12 and for free transportation for children under five or six years of age.

Railroads in Kansas are required ('07 ch. 272) to sell 500 mile nontransferable tickets for \$10. Partly used tickets can be redeemed only by allowing three cents a mile for the portions used. Interchangeable 2000 mile tickets must be sold at \$50, which amount is subject to a refund of \$9.50 if the ticket is used in 18 months. Transferable mileage books good for two years must be sold in Nebraska ('07 ch.94) at the rate of \$20 per thousand miles. Tennessee ('07 p.2197) provided for an investigation of the advisability of a two cent a mile statute by a joint legislative committee. The Massachusetts railroad commissioners were asked ('07 r.82) to investigate the matter of equalizing passenger rates in that state. In Mississippi ('08 ch.92) mileage books are to be transferable among all members of a family. A Virginia statute of 1906 (ch.256) required railroads to sell 500 mile tickets, good for all household members of a family for \$10. The Supreme Court of Appeals of Virginia (Commonwealth *v.* Atlantic Coast Line Ry. Co., 55 S. E. 572 [1906]), sustained the State Corporation Commission in holding this law unconstitutional. The case was covered, the court held, by the decision of the United States Supreme Court (L. S. & M. S. Ry. Co. *v.* Smith, 173 U. S. 684 [1899]), declaring a somewhat similar Michigan statute invalid. The position of the federal court was that though a law generally reducing passenger rates might be sustained, such discrimination in favor of members



of families did not constitute "due process of law," and was therefore in violation of the 14th amendment to the federal Constitution. The Virginia court, though under the necessity of following the federal decision, intimated that it did not regard the reasoning of the federal court as satisfactory. The same federal precedent led the Supreme Court of North Dakota (*State ex rel. McCue v. Gt. Northern Ry. Co.*, 116 N. W. 89 [1908]) to declare the North Dakota statute mentioned above ('07 ch.199) unconstitutional so far as it compels the sale of family mileage books at special rates.

A novel Wisconsin statute ('07 ch.266) provided that when a person pays for the use of a lower berth in a sleeping car he should have the right to direct whether the upper berth should be open or closed, unless the upper berth is actually occupied. But the Wisconsin Supreme Court (*State v. Redmon*, 114 N. W. 137 [1907]) declared that the statute was not a valid exercise of the police power, and that the proposed infringement of property rights did not meet the test of reasonableness.

**Passes.** General antipass laws were enacted in Alabama ('07 p.105), Iowa ('07 ch.112), Kansas ('07 ch.273), Minnesota ('07 ch.449), Nebraska ('07 ch.93), South Dakota ('07 ch.221) and Texas ('07 ch.42). Each of these statutes prohibits giving or receiving free or reduced transportation, and each contains a list of exceptions, including railroad employees and certain other persons, the lists varying somewhat in the different laws. The Texas statute applies to the services of railroads, street railroads, other common carriers, express companies, sleeping car companies, and telegraph and telephone companies. Oklahoma ('08 ch.64 art.1) made it a misdemeanor to violate the antipass provision of the state Constitution (art.9 §13). The Minnesota and South Dakota antipass laws provide that under no condition shall passes be given to members of political committees, or to candidates for or incumbents of public office. The Texas and Kansas statutes are very explicit in their definitions of "railway employees." Maine enacted a special statute ('07 ch.153) prohibiting state officials from using passes or from soliciting them for themselves or others. If the state officials happen to be railroad officials or employees, they may use passes, but their names must be filed with the Secretary of State, and they lose their right to receive mileage from the state. New Hampshire prohibits the use of passes by state officers, members of the Legislature, state and local judicial officers, certain

county officers, and delegates to political conventions. The Governor is to contract for transportation in lieu of mileage allowance for members of the Legislature and salaried state officers. New Jersey, on the other hand, increased ('07 ch.98; '08 ch.43) the list of officials entitled to free transportation in that state. It now includes all state officers, members of the Legislature, and senators and representatives in Congress. An Oregon statute ('07 ch.66) compelling railroads to give passes to state officers and to county judges and sheriffs was, on petition, submitted to a referendum vote and rejected. The Missouri law (R. S. '06 § 1085 p.933) requiring railroad companies to furnish free return transportation to shippers of live stock by the carload was declared invalid by the Missouri Supreme Court (*McCully v. C. B. & Q. Ry. Co.* 110 S. W. 711 [1908]) as involving a deprivation of property without due process of law.

**Public safety.** The regulation of highway crossings continues to be an important subject of legislation. An Ohio statute ('08 p.589) prescribes the conditions under which elevated or surface railroads may occupy public land or streets in cities. Easements may be taken on public grounds for the supporting structures of elevated tracks. City councils may grant similar rights as to the use of streets, if the purpose contemplated is the abolition of grade crossings. In Massachusetts ('08 ch.390) damages accruing in the matter of grade crossings to either municipalities or railroad corporations are to be investigated and passed upon by the auditor. Oklahoma ('08 ch.72 art.2) makes a general requirement that railroads shall construct crossings at all public highways.

Montana ('07 ch.43) and Wisconsin ('07 ch.70) prohibit the blocking of highways by trains or cars for more than 15 or 10 minutes, respectively. An Arkansas statute ('07 no.290) makes similar requirements.

In Indiana ('07 ch.90) town trustees may regulate the use of railroad whistles and bells and may require that signals, gates, or flagmen be installed at grade crossings. Minnesota ('07 ch.396) and Vermont ('06 no.119) put these matters into the charge of their railroad commissions. The Connecticut railroad commissioners may ('07 ch.224) order the removal of obstructions to view for 150 feet in each direction from grade crossings, the expense being borne by the railroads. Wisconsin ('07 ch.595) limits the speed of trains at grade crossings in municipalities.

Measures looking toward the abolition of grade crossings were



enacted in several states. Alabama ('07 p.736) empowers cities of over 35,000 inhabitants to order the construction by railroad companies of viaducts or tunnels over or under their tracks at their own expense. On petition from a locality, the railroad commissioners of Connecticut may ('07 ch.260) order the abolition of grade crossings. The expenses are apportioned among the locality, the railroad, and the street railroad (if one uses the highway), but not more than half the expense is to be borne by the locality. Massachusetts ('08 ch.372) authorized the Attorney General to employ a salaried civil engineer to examine plans submitted to commissioners for the abolition of grade crossings. Power to abolish grade crossings is conferred by an important Vermont statute ('06 no.125) upon the Railroad Commission, who may act upon the petition of local authorities or of the railroad directors. One fourth of the expenses of any such change may be paid by the state, and not over 15% by the town. Each railroad in the state is to annually remove at least one grade crossing for every 80 miles of road operated. The total expense accruing to the state is limited to \$25,000 per year.

Statutes regulating the crossing of one railroad with another were enacted in Illinois ('07 p.474, 475), Mississippi ('08 ch.90) and Ohio ('08 p.358, 390). Illinois makes the approval of the Railroad Commission a prerequisite to the construction of railroad crossings, and provides that all the expense of constructing a railroad crossing at grade shall be paid by the road desiring to cross the other. In Ohio the manner in which steam or electric railroads shall cross other railroads is determined by the county courts of common pleas, the expenses being apportioned by a jury. The Railroad Commission is empowered to require the installation of safety devices and to regulate the speed of trains at such crossings as well as at grade crossings with highways. The Mississippi commission may authorize trains to be run over railroad crossings without stopping, if interlocking or derailing devices are installed.

It is within the powers of the Minnesota commission ('07 ch.276) to order the installation of interlocking devices at railroad crossings, junctions and drawbridges, and to order that block signal systems be installed. In Indiana ('07 ch.205) it was made compulsory on all railroads with a gross annual income or at least \$7500 per mile of line to install block signal systems before July 1, 1909, although the Railroad Commission was empowered to extend this time limit for one year. Railroads in Connecticut ('07 ch.125) may



not change their signal systems without securing the approval of the railroad commissioners.

Another class of statutes endeavor to protect the public by making requirements as to the number and qualifications of railway employees. Georgia ('08 p.49) requires of locomotive engineers three years actual experience as fireman or engineer, or one year of such experience together with four years of training in a railroad machine shop. In Indiana ('07 ch.272) and North Carolina ('07 ch.330) it is a misdemeanor for an employee of a steam or street railroad to be intoxicated while on duty. Laws relating to the composition of train crews were enacted in Indiana ('07 ch.11), Maryland ('08 ch.724), Texas ('07 ch.41) and Wisconsin ('07 ch.402). The Indiana law requires a crew of six for freight trains of more than 50 cars, five for shorter trains, four for light engines, and five (exclusive of baggage man) for passenger trains of more than five cars. Maryland requires a crew of six for freight trains of more than 30 cars. Wisconsin requires crews of five for both passenger trains (of more than three cars) and freight trains. The Texas statute was declared invalid on account of an indefinite title (*M. K. T. Ry. Co. v. State*, 113 S. W. 916 [1908]). Nebraska ('07 ch.154) prohibits the employment of minors at night work as telegraph operators or towermen. Wisconsin ('07 ch.477) required that railroad telegraph operators must be at least 18 years old and must have had practical experience, or six months training. Assistants to experienced operators are not affected by the law. Another Wisconsin statute ('07 ch.575) limiting the work of train dispatchers and telegraph operators to eight hours per day was declared unconstitutional by the Supreme Court of Wisconsin (*State v. C. M. & St. P. Ry. Co.* 117 N. W. 686 [1908]) on account of its interference with the federal law of March 4, 1907, instituting a nine hour work day for telegraph operators handling interstate traffic. A similar Missouri statute ('07 p.332) was declared invalid on the same grounds (*State v. Mo. Pac. Ry. Co.* 111 S. W. 500 [1908]).

A general safety appliance law was enacted in Indiana ('07 ch.118). It requires automatic couplers, grab irons, hand holds and standard drawbars on all cars; provides that 75% of the cars in a train shall be equipped with power brakes, specifies minimum clearances for overhead bridges and other structures, and puts the administration of the law in the hands of the Railroad Commission, which is authorized to appoint an

inspector of safety appliances. Noncompliance on the part of the railroads releases their employees from the operation of the doctrine of "contributory negligence." In Michigan ('07 no.234) automatic couplers are required on all but logging cars. Laws specifying that locomotive headlights of a specified minimum power must be used were enacted in several states. In addition to statutes providing primarily for the public safety, account should be taken of a number of statutes providing primarily for the safety of the employees themselves (*see* Index of Legislation, 2080). Still other statutes relate to the hours of labor of railway employees (Index of Legislation, 2097), and these, of course, have a very important relation to public safety.

An important tendency shows itself in the growth of legislation intended to fix the responsibility for accidents. Some of the commission laws analyzed in the earlier pages of this review contain provisions of this sort. Further legislation is found in Iowa ('07 ch.110), Indiana ('07 ch.295), Minnesota ('07 ch.290) and North Dakota ('07 ch.205). In each of these states railroads are to immediately notify the railroad commissions of the occurrence of accidents resulting in loss of life or personal injuries. Investigations may be made by the commissioners, who report their findings to the Legislature. Minnesota requires a monthly report of all accidents. The Minnesota and North Dakota commissioners are to examine into the causes of all train wrecks and may make reasonable orders intended to prevent a recurrence of them. Indiana further provides ('07 ch.272) that train rules be printed and filed with the commission and that the railroads shall periodically examine all employees with reference to their knowledge and understanding of these rules. At least once a year the commission must call a convention of division superintendents and other operating and dispatching officials, which is to consider the reports of accidents filed with the commission and the commission's findings in regard to the same. A violation of the printed rules that leads to loss of life may be made the subject of criminal prosecution.

**Damages.** An unusually large number of statutes are designed to facilitate the collection of damage claims against carriers. An Alabama law ('07 p.96) provides that if damage claims are not paid in 60 days, recovery by suit may be for from one and a half to four times the amount involved, depending upon the amount of the claim. Arkansas ('07 no.166) permits



recovery of treble damages if claims are not paid within 30 days after presentation. In Florida ('07 no.23), if the claim is not paid in 60 days recovery may be for one and a half times the amount, in addition to interest and attorney's fees. Louisiana ('08 no.29) imposes a penalty for failure to pay damage claims in 30 days for intrastate and 60 days for interstate shipments. If claims of \$200 or less are not settled in Mississippi ('08 ch.196) within 90 days, \$25 is added to the amount. Ohio ('08 p.128) allows 120 days for the payment of damages or the refunding of overcharges. If then still unpaid, complaint may be made to the Railroad Commission, which may, after hearing, order payment before a specified date. The findings of the commission are prima facie evidence in further court proceedings. Tennessee ('07 ch.235) requires that small claims be paid in 60 days, or if two or more railroads are involved, in 90 days. Otherwise the claim is increased by 25 per cent. In Vermont ('08 no.116) damages or other claims against railroads are to be paid in 60 or 90 days, according as intrastate or interstate business is involved. An additional penalty of \$25 is imposed for noncompliance, but the same amount has to be paid by the claimant to the carrier if the claim is proved to be fraudulent. None of these statutes affect cases in which the courts decline to allow the full amount of the claims. North Dakota ('07 ch.57) refuses to permit carriers to relieve themselves by special contracts from liability for gross negligence. Arkansas ('07 no.239) does not allow carriers to contract out of their common law liability. In Kansas ('07 ch.282) and Montana ('07 ch.119) railroads must pay twice the value of any coal confiscated by them in transit. North Carolina ('07 ch.467) adds 25 per cent to the value of the coal so confiscated. Wisconsin ('07 ch.581) has increased the maximum amount of damages collectible for a death caused by a railroad from \$5000 (S. '98 §4256) to \$10,000. Alabama ('07 p.96, 704) makes the initial carrier liable to the shipper for damages caused by connecting lines, whether on state or interstate shipments. Minnesota ('07 ch.466) provides that connecting lines may be joined as defendants in damage suits, the jury determining the division of the liability. A Virginia law ('03 ch.258) making common carriers liable for injury to property received from connecting lines was declared by the Supreme Court of the state (*Winslow Bros. v. Atlantic Coast*



Line, 60 S. E. 709 [1908]) to be an unconstitutional interference with interstate commerce.

More than a dozen statutes relate to the duty of railroads to construct fences or cattle guards. Some of these provide that the owner of adjoining land may construct these at the expense of the railroad, if the latter fails to do so. In some cases the noncompliance of carriers with these laws makes them liable for all injuries to cattle, except where there is gross and wilful negligence on the part of owners. Some of the statutes also provide that double damages may be collected in case a railroad fails to pay for injured stock within (usually) 30 days. In Montana ('07 ch.183), when owners do not present claims on account of stock injured, the State Board of Live Stock Commissioners are to collect the same, and, if unclaimed for two years, to transfer the amounts thus obtained to the "stock indemnity fund."

Railroads are made liable for all damages that may be caused by fires resulting from their operation, whether from negligence or lack of proper spark arresters or not, in Arkansas ('07 no.141), South Dakota ('07 ch.215) and Virginia ('08 ch.269, 392). The two states last named invest railroads with an insurable interest in property on their routes. In this connection an important Massachusetts statute ('07 ch.431) may be mentioned. This law relates to the protection of woodlands from fires. Among other things it requires the use of spark arresters, prohibits the depositing of hot ashes in the vicinity of woodlands, and provides that a strip 400 feet wide along the right of way be kept free of dry brush or other inflammable materials.

**Incorporation and general powers.** Railroads organized under the laws of Arizona may ('07 ch.3), if so provided in the articles of incorporation, own, construct and operate railroads in other states. Maryland ('08 ch.154 p.70) very properly provides that although railroads may substitute electricity for steam as a motive power, they are to remain subject to the laws relating to steam railroads. Foreign railroad corporations operating in Missouri ('07 p.174) are to suffer a five years suspension of their licenses if they remove causes brought against them in a state court to a federal court or if they institute proceedings against citizens of the state in federal courts. This law, if constitutional, means the prohibition of intrastate traffic, under penalties of from \$2000 to \$10,000 for each offense. Railroads in New Mexico may ('07 ch.27, 94) exercise the same powers in building

branches or sidetracks as for main lines. Declaration of the intention to construct a branch, together with the filing of plans with the secretary of the territory and with county recorders gives a prior right to the route chosen, though work need not be begun for two years and need not be completed until six more years have passed. North Carolina ('08 ch.142) allows railroads three years in which to begin construction. At least one director of every railroad incorporated in North Carolina must be ('07 ch.472) a citizen of the state. Virginia ('c8 ch.241) provides for the surrender of a special charter, by a two thirds vote of a railroads' stockholders, and the taking out of a new charter under the general laws of the state. But railroads chartered since 1837 are not thereby released from any public obligations, nor can any railroad in which the state owns securities take advantage of this law without securing the approval of the state corporation commission. Railroads in Virginia ('08 ch.149) may acquire or construct short lines of not over 25 miles, if the consent of the corporation commission is secured, but any railroad availing itself of this permission thereby waives any tax exemption it may have.

Nothing in recent American railroad legislation is more significant than the growing tendency on the part of our states to regard railway charters as valuable privileges, not to be granted without careful scrutiny of the reasons given for the construction of a new railroad. Sharply contrasted as this attitude is with the general policy of the reckless encouragement of railroad building that was dominant only a few decades earlier, it marks the completion of one stage in the economic development of the nation. Arkansas ('07 no.89) changed the rules of organization of the Board of Railroad Incorporation of that state (S. '04 §6545). This board is composed of seven state officers, who decide what the public interest is in the granting of petitions for railroad charters. Before a railroad or a street railroad can be constructed or extended in New York the Public Service Commission which has jurisdiction in the case ('07 ch.429) must grant a certificate of public convenience and necessity, a document which is also necessary to the exercise of any franchise or right under the provisions of the railroad law of the state not previously exercised. No line of railroad is henceforth to be constructed in Indiana ('07 ch.241) without the approval of the Railroad Commission. In South Dakota ('07 ch.217) no new railroad is to parallel an exist-



ing railroad within 8 miles for a greater distance than 10 miles in every hundred (exclusive of trackage in incorporated towns and cities), without the permission of the railroad commissioners. Moreover, before any new railroad can be constructed, plats must be filed with the commissioners, who, "if satisfied that the railroad is desirable and that there is probability of the same being constructed," may grant a construction permit. A certificate of public convenience and necessity, issued by the Railroad Commission, is ('07 ch.454) a prerequisite to the construction of railroads and extensions in Wisconsin. The applications for such certificates must be accompanied by maps and profiles, and the matter is decided only after an advertised hearing. If the commission decides adversely the matter is at once placed for review in the circuit court of Dane county (in which county the commission's office is located). The court must render a decision in 30 days, whereupon appeal may be taken to the Supreme Court by any party aggrieved. After a railroad has obtained a "certificate of public convenience and necessity" it submits specifications of its proposed construction details to the commission, which may order changes in the interest of public safety. Again after the railroad is constructed, it is inspected by the commission, which may then issue an order specifying in general terms the methods and conditions of its operation. The Vermont commission is ('06 no.118), after public notice to hold a public hearing in the county where a proposed railroad is to have its principal office and is to determine "whether the construction of the proposed railroad will promote the general good of the state," and whether the general incorporation laws of the state have been fully complied with.

**Capitalization and indebtedness.** When railroads organized under the laws of Massachusetts increase their capitalization ('08 ch.636) the new stock must be offered first to the holders of the outstanding stock proportionally, at such cash prices, not less than par, as the stockholders may determine and the railroad commissioners may approve. The residue unsubscribed, or the entire issue, if it is less than 4% of the amount of the existing stock, may be sold directly to the highest bidders at not less than par. Massachusetts also ('08 ch.620) amended the provisions of her general railroad law ('06 ch.463) relating to bond issues, so that the funded debt is not allowed to exceed the total amount of the par value of the capital stock, increased by the amount of the cash premiums paid in on all shares issued subsequent to July 9, 1894 (*see* '94



ch.462). The capital stock of North Dakota railroads may be increased ('07 ch.53) by a two thirds vote of all stock or by a majority vote if the increase is for the purpose of purchasing another railroad, or for construction, improvements, or equipment. The corporations under the jurisdiction of the Georgia Railroad Commission ('07 p.72) are not to issue stocks or bonds except with the approval of the commission, and then only in such amounts as "may be reasonably required" for the acquisition of property, construction, payment or refunding of debts, improvement or maintenance of service, or "for other corporate purposes within the spirit of this provision." The approval of the New York Public Service Commission ('07 ch.429) is necessary to the issuing of stock, bonds, or other forms of indebtedness that run for more than a year. The commission is not to approve the capitalization of any "franchise to be a corporation," nor to authorize the capitalization of any franchise in excess of the amount (exclusive of taxes) paid to the state or to local subdivisions for it, nor to authorize the capitalization of a merger at more than the sum of the capitalization of the merging corporations plus whatever amount is paid in in cash. Contracts for consolidation or lease are not to be capitalized.

**Construction. Right of way. Expropriation.** New railroad lines can not be operated in Minnesota ('07 ch. 260) until maps and profiles, and itemized statements of cost are filed with the Railroad Commission. The completed lines must be inspected by the commission before they can be opened. In addition to former grants of a 100 foot right of way through state lands in Washington ('01 ch.173), extra land within 100 feet of either side of the right of way may be taken for special purposes ('07 ch.104), if the original right of way has been paid for. Rights of way through the state lands of Oregon could formerly (C. & S. §3336) be taken at the price of one dollar per acre. Now ('07 ch. 232) the price is to be fixed by the State Land Board, which may also make regulations and fix compensation for the construction of railroad bridges across rivers and other navigable waters.

In Indiana ('07 ch.211) a railroad is liable for damages to industries and property resulting from the removal of track more than one mile long. Railroads in Minnesota ('07 ch.261) may not abandon any portion of their lines, including spurs and sidings, except by permission of the railroad commissioners. Tennessee ('07 ch.464) permits the relocation of tracks, the building of additional

tracks, the substitution of embankments for trestles and the widening of cuts and grants the right of eminent domain for these purposes. It is provided, however, that when track is relocated, spurs must be built to the industries situated on the former track, and that where the original right of way was obtained in any other way than through voluntary sale, the railroad is liable to the original landowner for its value. Relocation must have the consent of cities, towns, or taxing districts, and may not be used to facilitate the consolidation of "parallel or competing companies." Railroads operating in North Carolina may ('07 ch.458) with the consent of the Corporation Commission condemn land for union stations, relocations, double tracks, enlargement of yards, or connection of tracks not more than 6 miles apart. The consent of the Corporation Commission is also made a prerequisite to the condemnation (under general laws) of land in incorporated towns, and of yards, gardens and dwelling houses. Idaho ('07 p.472) no longer requires that articles of incorporation shall specify the terminal points or describe the route. West Virginia ('08 ch.28) will no longer allow a railroad company to condemn land on both banks of navigable streams, if such a proceeding would interfere with the building of another line. Moreover, even where both banks are already occupied by one company, a second may condemn the land on the side opposite to the first company's main line, unless another equally practicable and available route is at hand.

**Consolidation.** The statutes relating to this subject fall naturally into two classes, the one embracing statutes designed to facilitate mergers, and the other made up of laws intended to prohibit or prevent certain kinds of mergers, although both classes of provisions may sometimes be found in the same act. Delaware ('07 ch.175) permits consolidated railroads to acquire land by condemnation. Maryland railroad corporations may ('08 p.68) lease or be leased by other railroad corporations, if the lease is approved by a vote of three fourths of the stock at a special meeting. Aggrieved minority stockholders may petition a court to appoint three disinterested commissioners to appraise the loss incurred by them and to determine the market value of the stock, not counting any depreciation due to the lease. The railroad may choose between paying the damages thus assessed or buying in the stock at the price fixed. The law does not apply to "competing" railroads. South Carolina ('08 no.501) authorizes railroads to sell or lease their



properties or franchises to other railroads, "if not inconsistent with the laws of this state or of the United States." Utah ('07 ch.93) codified her general railway incorporation law and so amended it as to provide specifically for mergers of Utah railroad corporations with each other or with foreign corporations. Capital stock may be increased for the purpose of acquiring the stock of other railroads; holding companies may be organized, which succeed to the charter rights of the railroads acquired; and leases are permitted. The law applies to steam and electric railroad corporations. It is provided that the lines consolidated are to be "substantially continuous or connective, and not competing." Utah also permits ('07 ch.34) Utah railroad corporations owning lines situated in foreign countries to convey to corporations of such countries. Missouri ('07 p.184) provides that the purchaser, lessee, receiver or assignee of a railroad or street railway shall assume all its liabilities. The lessor is also liable for all the debts of the lessee; creditors may bring suit against either corporation.

The consolidation of "parallel and competing" railroads is forbidden in Minnesota ('07 ch.395), North Carolina ('08 ch.119) and Pennsylvania ('07 no.254). The Pennsylvania law also applies to mergers of railroads and canals. Minnesota and Pennsylvania provide that whether railroads are parallel and competing is a matter to be decided by a jury. The North Carolina statutes make it unlawful for railroads to secure any interests in competing lines. Massachusetts enacted a law ('07 ch.585) intended to delay the consolidation of the New York, New Haven and Hartford and the Boston and Albany Railroads. Such consolidation was prohibited unless ratified by the owners of two thirds of the stock of each road, approved by the railroad commissioners, and authorized by a special statute. In the meanwhile, the statute provided that one road was not to acquire the stock of the other, vote stock already acquired, or elect or appoint any officers of the other railroad as its own officers.

**Public aid and ownership.** Statutes relating to public subsidies to railroad corporations are of diminishing importance in American legislation. Kansas ('07 ch.286) extended the power of cities to issue bonds to aid railroads in acquiring terminal facilities (G. S. '01 §5907, 5911) so as to apply in the case of electric railroads. Towns in Kansas may ('08 ex. sess. ch.82) issue bonds not exceeding in amount 10% of the value of their taxable property to aid railroads in building shops, roundhouses or other terminal facilities.



Minnesota ('07 ch.244) and Nebraska ('07 ch.77) authorize cities of the fourth and second classes, respectively, to issue bonds under prescribed conditions for the purpose of aiding the construction of railroads. The Minnesota law also relates to electric railroads.

A short railroad owned by the state of Texas at Rush Penitentiary is ('07 ch.74) to be extended to connect with two other railroads, state bonds to the amount of \$150,000 being authorized for this purpose. The Railroad Commission is to have jurisdiction of the traffic, "especially in compelling a just and fair division of traffic charges." Louisiana ('08 no.179) authorized the city of New Orleans to build and operate a public belt railroad system. An amendment to the state Constitution was adopted in November 1908, authorizing the issue of \$2,000,000 of 5% municipal bonds for this purpose. Interest is to be paid and sinking fund accumulated, so far as possible, from the earnings of the railroad. In case of deficiency interest funding bonds are to be issued, subject to call, and payable out of the proceeds of a special tax of 2 mills per annum which is to be levied in case of necessity, beginning in 1943. The construction and operation of the road is intrusted to a municipal commission, no member of which is to be a director, officer or employee of another railroad. The statute provides that the railroad is always to remain public property. The Board of Commissioners in charge of the building and operation of the Oregon Portage Railway between the Dalles and Celilo, Oregon, is composed of three members appointed by the Governor ('07 ch.104). It previously comprised the Governor, the Secretary of State and the State Treasurer ('03 p.108). An appropriation of \$10,000 is made of maintenance, repairs, equipment and operating deficit.

**Protection of railroads.** A number of statutes make misdemeanors of tampering with railroad property, trespassing upon the right of way, etc., and some relate to more serious offenses, such as injuring signal devices, removing brasses and burning cars or buildings. Maine ('07 ch.134) provides a penalty for refusal to pay fare on railroads or other carriers.

**Miscellaneous.** Public attorneys may not accept retainers from common carriers in Wisconsin ('07 ch.542) under penalty of ouster from office. Louisiana ('08 no.297) and Oklahoma ('08 ch.72 art.55) prohibit railroads having repair shops within the state from sending cars or locomotives outside the state for repairs, unless (Louisiana) the haul is shorter. Conductors and engineers of railroad trains in Oregon ('07 ch.206) are given the powers of sheriffs in the counties through which they pass.

### Express companies

As was noted in the earlier pages of this review, express companies were put under the supervision of most of the newly established railway commissions. Iowa ('07 ch.116) requires that express companies shall be subject to all applicable laws relating to railroads. The railroad commission is to investigate discrimination, establish rates including joint rates, and make a schedule of maximum rates for each express company operating in the state. Schedules of rates must be posted and greater charges are prohibited. Nebraska ('07 ch.91) provided that pending the establishment of a schedule of maximum rates by the Railroad Commission, all express rates must be reduced by 25%, with the exception of rates on small prepaid packages and special contract rates on cream, milk and poultry. The New Hampshire railroad commissioners are empowered ('07 ch.100) to fix reasonable express rates, upon the petition of any party interested, and may change such rates from time to time. Florida ('07 no.32) made 25c the maximum rate for transporting packages of not over five pounds and not valued at more than \$50 for not over 200 miles. The same state provides that ('07 no.31) printed rate schedules must be conspicuously posted in offices, greater charges being prohibited. Goods must be weighed in the presence of the shipper if he so demands. A Kansas statute ('07 ch.64) states that "any corporation receiving money for which it issues its check, draft, bill of exchange, or other evidence of indebtedness for which it charges a fee, shall be considered as doing a banking business." Kansas ('07 ch.202) levies an "excise tax" of  $1\frac{1}{2}\%$  on the gross earnings of express companies minus the sums paid by them to the railroads for the transportation of freight. Express companies are to make annual reports to the state auditor. The Railroad Commission of Mississippi may ('08 ch.80) require express companies to maintain offices at such places as public convenience may require. Mississippi also ('08 ch.294) petitioned her senators and representatives in Congress to endeavor to secure the establishment of a parcels post.

### Street and electric railways

The development of the legal status of interurban railways continues to be a significant feature of the new legislation. There is a distinct tendency toward classing them in respect to their powers and duties with steam rather than street railroads. But on the other hand their occupancy of public highways and the common



operation of their cars over the tracks of city street railways makes it impossible to release them from the requirement of local franchises. Another development of importance is found in the gradual growth of the various administrative powers which state railroad commissions possess with regard to street railways.

**Corporate powers.** Before articles of incorporation can be issued to street railway companies in Pennsylvania ('07 no.265), copies of ordinances of all the localities through which the route extends authorizing the construction of the road must be filed with the Secretary of the Commonwealth. All street and interurban railways in Pennsylvania are authorized ('07 no.80) to do an express business and to carry light freight, subject only to local regulations, the reasonableness of which is subject to review in Courts of Common Pleas. In Massachusetts ('07 ch.402) a street railway may become a common carrier of newspapers, baggage, express matter and freight, when so ordered by local authorities, after hearing held upon petition. If favorable action is not taken by the local authorities, appeal may be taken to the railway commissioners. Such traffic is subject to the regulation of the local authorities, approved by the railroad commissioners and to all laws relating to common carriers not inconsistent with the local regulations. But the transportation of milk and cream ('08 ch.278) is subject only to the supervision of the railroad commissioners.

Michigan ('07 no.305) permits the consolidation of street railway companies with electric light and power companies situated in the same or adjacent localities, if the written consent of all stockholders is given. In the upper peninsula the consent of three fourths is sufficient. North Carolina ('07 ch.302) authorizes street or interurban railway companies to build water power plants for the purpose of generating electricity for operation. Kansas ('07 ch.287) authorizes electric railways to establish electric light plants for the purpose of supplying cities and towns along their routes, although, in cities of the first and second class, local franchises must be secured.

In Tennessee ('07 ch.433) interurban railways are given the same powers and duties as other railroad companies, except that they are not compelled to receive and haul the cars of steam railroads. They may issue common and preferred stock, build branch lines, issue branch line mortgages, condemn land for rights of way and power plants, construct tracks on public highways with the consent of County Courts, but may not occupy streets in towns or



villages without the consent of the local authorities. Street railways in Maine ('07 ch.94) may build longer lines than provided for in the articles of association, and, with the permission of the railroad commissioners, may correspondingly increase their stock. New Jersey provides ('08 ch.136) that the routes of street railways may be changed, if amended map and description is filed with the Secretary of State. Land previously acquired by condemnation reverts to the prior owner. In Massachusetts ('08 ch.450) changes of route must be approved by the local authorities and the railroad commissioners. Iowa ('07 ch.99) permits the issue of securities based on the conditional sale or lease of power houses and equipment in the same manner as in the conditional sale of rolling stock. Pennsylvania ('07 no.281) makes it unlawful for any Pennsylvania railroad corporation to acquire, lease, guarantee the securities of, or in any way control a street railway having a "parallel or competing line with said railroad." South Carolina ('08 no.502) permits electric railways, gas and electric light companies to lease their properties and franchises to other electric railways, gas and electric light companies, if approved by a majority of the stockholders.

**Franchises.** County commissioners in Colorado ('07 ch.183) are empowered to grant rights of way along county roads, if the owners of a majority of the abutting property have consented. Such franchises can only be granted after public notice, and may extend for not more than 20 years. Bridges must be widened to 24 feet at the expense of the railway company, which is also required to pay one half the cost of constructing and maintaining all bridges. The recipients of similar franchises in Iowa ('07 ch.97) need not necessarily be Iowa corporations. Whether the consent of local supervisors is needed, and whether the consent of two thirds of the property owners is needed in addition to that of the supervisors depends upon the width of the road to be occupied. Maine ('07 ch.132) provides that if municipal authorities and a street railway corporation fail to agree as to its route, appeal may be made to the Railroad Commission. In New York ('07 ch.156) the consent of highway commissions and town boards is a prerequisite to the building of street railways in towns. Ohio ('08 p.102) provides that the granting or renewal of a franchise must be submitted to a referendum vote if 15% of the voters petition to that effect. The consent of the owners of abutting property is not necessary to the renewal of a franchise. Cities in Ohio may

('08 p.452) grant rights of way through public streets and lands to elevated roads and subways, and may provide for ultimate municipal ownership. The fare is limited to five cents within city limits. The franchise must be submitted to a referendum vote on the petition of 10% of the voters. Pennsylvania ('07 no.66) provides in general terms that municipalities may contract with street railway companies as to the franchises, powers, duties, liabilities and rights of the latter. They may provide for payments in lieu of license fees or other charges; for the appointment of a certain number of directors to represent the municipal interests, and for ultimate municipal acquisition. This is the first general law of Pennsylvania relating primarily to local franchises, although previous statutes have made local consent necessary to the construction of street railways. Local street railway franchises in Washington ('07 ch.99) may be granted for the use of any power except steam. The maximum duration of franchises is increased by Wyoming ('07 ch.6) from 10 years to 25 years.

**Expropriation.** Interurban electric railways are given the right of eminent domain in Louisiana ('08 no.80), Missouri ('07 p.174), North Dakota ('07 ch.212) and South Carolina ('08 no.467). The Louisiana and North Dakota statutes confer the same power on street railways, as does a Tennessee statute ('07 ch.446). In Wisconsin ('07 ch.580) a right of way not over two rods wide may be condemned by street railways for their transmission lines. Pennsylvania ('07 no.332) allows street railway companies to divert their routes from public highways to private property, but does not grant them the right of eminent domain unless ('07 no.266) they are common carriers of express matter and light freight. Texas enacted a general law ('07 ch.15) relating to the powers of interurban railway companies. They may lay out their routes along or across streets, highways, steam railways, streams and navigable waters. Consent of the local authorities must be obtained. They may produce and sell electric light and power, and are given the power to condemn rights of way not over 200 feet wide and to condemn easements along the tracks of electric street railways in towns or cities. Two or more street railways in California may ('07 ch.448) arrange by lease, contract or condemnation to use the same tracks for not more than five blocks. Iowa ('07 ch.104) requires street railways to permit interurban railways to use their tracks and terminal facilities. In case of disagreement the compensation is fixed by the State Railroad Commission.



City councils in Wisconsin may ('07 ch.536) require that two companies operating parallel tracks in the same street shall use their tracks jointly, so that each track may be operated in only one direction. Otherwise one company may condemn the right to use the other's tracks.

**Fares.** In Alabama ('07 ex. sess. p.42) and New Hampshire ('07 ch.131) reduced rates may be given to school children, and (in Alabama) to firemen, sanitary inspectors and policemen. Electric surface roads in New York city are not (N. Y. '07 ch.229) to collect for a continuous ride more than one fare within and one fare without the city limits. Pennsylvania ('07 no.305) prohibits more than a five cent fare for a continuous ride without transfer within the limits of any city of the second class.

**Race distinction.** Maryland ('08 ch.248 p.88) requires that separate seats be furnished for white and colored passengers in electric railways running 20 miles beyond the limits of an incorporated place. The Texas statute on this subject (Pen. C. art.1010) is amended ('07 ch.36) so as to permit the use of separate compartments instead of separate cars, and to apply to street and inter-urban railroads. North Carolina ('07 ch.850) prescribes that separate seats be furnished for white and colored passengers and compels the use of the same. Florida replaced a former statute ('05 no.49) which had been declared unconstitutional by a new provision ('07 no.22) that equal but separate accommodations be furnished white and negro passengers on electric cars.

**Municipal ownership.** In Wisconsin ('07 ch.578) all future franchises are to be indeterminate and subject to purchase by the municipality in which the major portion of the property is situated. The amount and conditions of payment are to be fixed by the Railroad Commission. Street railways now operating may exchange their existing franchises for indeterminate ones, thereby consenting to the future purchase of their properties by municipalities. Street railways which continue to operate under their present franchises may be acquired by municipalities by condemnation within three years before the expiration of the franchises. Missouri ('07 p.117) authorized cities with over 100,000 population to build or acquire subways, and to operate them or to lease them for terms of not over 50 years, if the lease is approved by a majority vote at a special election. Massachusetts ('07 ch.573) provided for the construction of the Riverbank subway in Boston by the Boston transit commission, under plans approved by the Boston Elevated Rail-



way Co. The operating contract is for 25 years at a rental of  $4\frac{1}{2}\%$  of the net cost (including in "net cost" the expenses of construction and of acquisition, with interest at  $3\frac{1}{4}\%$ ). The statute authorizes necessary increases in the municipal bonds and in the stock or bonds of the company.

**Public safety.** In Connecticut ('07 ch.124) railroads operated by electricity are not to be opened to travel until the railroad commissioners certify that they are in a suitable and safe condition. Wisconsin ('07 ch.390) requires that all single cars or front cars on trains on street and interurban railways be provided with fenders or pilots. Connecticut ('07 ch.267) makes imprisonment for not more than 10 years the punishment of a railroad or electric railway employee, who, on account of intoxication, or gross or wilful misconduct causes loss of life or the breaking of a limb. New Jersey ('08 ch. 139) requires that within 75 feet of crossings third rails be covered with wood or other nonconductor. A New Hampshire statute ('07 ch.113) compels the equipment of all eight wheeled or double trucked electric passenger cars with power brakes.

### Canals

The recent increase of interest in the development of American waterways is reflected in the unusually large number of new statutes relating to canals. Notwithstanding the disastrous experience of Pennsylvania with her canals and other internal improvements a joint resolution of the Pennsylvania Legislature ('07 p.831) directed the Governor to appoint a commission to "investigate into the facts as to the abandonment of the canals of the state, and as to the abandonment of the construction of competitive railroads by existing corporations, and to recommend . . . such legislation as shall enable the state to take any existing canals which are now parts of abandoned canal systems, and to recover, as far as may be lawfully done, the said abandoned canals and restore them to highways of transportation . . . and to establish canal companies independent of railroad control," etc. The Governor delegated this task to the new railroad commission. New Jersey ('08 p.732) provided for a joint committee of the Legislature to inquire into the status of the Delaware and Raritan canal. A joint committee of the Ohio Legislature was given ('08 p.618) similar duties with reference to the southern division of the

Ohio canal. Pennsylvania also ('07 no.318) made some important amendments in a statute ('95 no.129) providing for the incorporation and regulation of a company to construct and operate a ship canal between the Great Lakes and the navigable waters of the state. Florida ('07 p.777) and Georgia ('07 p.992) instructed their respective senators and representatives in Congress to endeavor to secure appropriations for the survey of a ship canal from the Atlantic to the Gulf of Mexico. The route favored by Georgia has St Mary's, Georgia, as an eastern terminus, while the Florida route follows the St Johns and Withlacoochee rivers. Georgia also ('08 p.1039) memorialized Congress for an appropriation for the survey of a canal connecting the Atlantic coast with the Mississippi valley by means of the Tennessee and Ocmulgee rivers. This route was surveyed by the federal government in 1872 for the proposed "Atlantic and Great Western canal." Wisconsin ('07 p.1268) endeavored to secure a federal appropriation for the investigation and survey of the Fox-Wisconsin river route from the Great Lakes to the Mississippi. Illinois ('07 ex. sess. p.102) followed the more effective method of providing for an issue of \$20,000,000 of state bonds for the construction of a deep waterway from the Chicago sanitary district to the Illinois river. The water power developed may be leased, but the proposed canal can be sold or leased only by vote of the people. A commission comprising 10 members of the Legislature and five persons appointed by the Governor was ('07 ex. sess. p.103) authorized to investigate the matter.

Oregon ('07 ch.95) offered to contribute \$300,000 to the building of a federal canal around the falls of the Willamette river at Oregon City. Washington ('07 ch.158) authorizes counties to incur indebtedness for the purpose of aiding the federal government in the construction of canals connecting any bodies of water within their boundaries. Louisiana ('08 no.14, 19) authorizes parish school boards and drainage district commissioners to donate rights of way in school and swamp lands to the United States for canal purposes. New Jersey ('08 ch.35, 36) amended a statute ('77 ch. 85) providing for the incorporation of canal companies so as to permit the construction of longer and wider canals than had been previously authorized. New York adopted a number of statutes ('07, ch.394, 710; '08 ch.88, 195, 196) relating to the barge canal now being constructed by



that state. The route is changed at a few points; a salaried appraiser is to make reports regarding the relative desirability of purchasing or condemning particular pieces of land needed for canal purposes; and the advisory board of consulting engineers is required to approve all plans, specification estimates, and all proposed acquisitions of land before these matters can be passed on by the canal board.

### Bridges

More than 40 statutes relate to bridges, but most of these have a purely local interest. Among the few statutes of greater significance may be mentioned the provisions of New York ('07 ch.319) and New Jersey ('08 p.727) for commissions which are to confer with each other with reference to the proposed construction of tunnels or bridges under or over the Hudson river at the joint expense of the two states. New Jersey ('08 p.730) authorized the Governor to appoint a commission to confer with a Pennsylvania commission with reference to the acquisition of toll bridges over the Delaware river. Maine ('07 ch.179) authorized county commissioners to acquire toll bridges by laying out county roads across them, paying the assessed damages from the proceeds of bond issues. The bridges thus acquired may be maintained as county toll bridges for six years, the income from tolls being used to retire the bonds. Oklahoma ('08 ch.21 art.1) prohibits combinations, price agreements and pooling contracts on the part of bridge contractors.

### Telegraphs and telephones

**Incorporation.** Three or more persons may form a telephone corporation in Connecticut ('07 ch.245), New York ('07 ch.310) extended its general law relating to telegraph and telephone companies ('90 ch.566) so as to include corporations for the "generation and distribution of music electrically." Telephone companies in Tennessee are ('07 ch.134) included in the operation of the law ('75 ch.142) relating to the incorporation, powers and duties of telegraph companies. An important amendment to this statute gives localities the power to regulate in a reasonable way the construction and operation of telephone lines, to charge rentals for the use of streets and to fix maximum rates. But localities can not refuse to grant telephone franchises to companies complying with all reasonable regulations. This, of course, makes it impossible for any locality to prevent the



unnecessary and undesirable duplication of telephone exchanges. Wisconsin ('07 ch.662) gives telegraph, telephone, power, heating and lighting companies the right of eminent domain, including ('07 ch.631) the right to take easements across railroad rights of way. Wires may not be strung across railroad tracks, however, ('07 ch.291), except in a specified manner. Poles can not be erected outside the limits of highways, streets, or alleys, or wires attached to trees, buildings or other private property without the consent of the owner ('07 ch.669).

**Rates and services.** Vermont ('06 no.132) provides a penalty for unlawful discrimination in telephone rates. Georgia ('08 p.94) and Mississippi ('08 ch. 76) require that messages be transmitted promptly and delivered to points within one mile of the office. Telegraph companies operating in cities and towns of over 12,000 inhabitants in Maine ('07 ch. 180) are required to maintain offices in the business portions of such towns. North Dakota ('07 ch.246) imposes a penalty for any delay of more than 30 minutes in the transmission of a telegraph message, except in the case of accidents to lines, or during severe storms. Telephone companies must make physical connections at all common points in Texas ('07 ex. sess. ch.12) and telegraph companies must transfer messages at common points if through transmission is not possible on the lines of the company. Local authorities may make orders enforcing this law. In Maryland ('08 ch.280 p.72) the time of filing for transmission and the time of delivery must be indicated on all telegrams. Florida requires ('07 no.33) that telegrams be transmitted promptly and that they be delivered promptly in all incorporated places, stipulations to the contrary notwithstanding. All prepaid messages must ('07 no.34) be received for transmission.

**Commission control.** Statutes putting telegraph and telephone companies under the supervision of railroad commissions have been discussed in the earlier pages of this review. South Dakota has ('07 ch.239) made a new departure by creating a State Board of Telephone Commissioners, composed of the state Treasurer, the state Auditor and one salaried member appointed by the Governor, for a term of two years. This third member is not to be interested in any telephone company. His especial duty is to inquire into discrimination, violations of law, and other matters complained of, and to report his findings to the commission. The commission is empowered to establish schedules of maximum rates

(after hearing), to obtain statistical and other information from telephone companies, and to compel the connection of lines.

**Liability.** Minnesota extends to telephone companies ('07 ch.212) the penalties already imposed upon telegraph companies (R. L. '05 §5134) for divulging the contents of messages, or refusing or neglecting to transmit or deliver them. A Utah statute ('07 ch.23) contains similar provisions. In Missouri telephone and telegraph companies are liable for refusal or neglect to transmit or deliver messages and for errors in transmission (R. S. §1255, 1259) whether Missouri corporations or not ('07 p.189). Suits against telephone or telegraph companies in Virginia ('08 ch.198) for failure to transmit messages, and, in Louisiana ('08 no.20) for errors in transmission may be brought at either the place of origin or of delivery of the message. Vermont now ('06 no.131) imposes the penalties in such cases upon the corporation instead of the "operators or employees" (S. § 4256). In Wisconsin ('07 ch.165) telegraph companies may be made to pay damages (not over \$500) "for the mental anguish resulting from failure or negligence in revising, copying, transmitting and delivering messages."

**Miscellaneous.** Nebraska ('07 ch.76) adds "the construction or purchase of a telephone system," and strikes out the giving of aid to railroads, from the list of purposes (C. S. '05 ch.45 §14) for which local subdivisions and municipalities may issue internal improvement bonds. South Dakota ('07 ch.88) authorizes the municipal ownership and operation of telephone systems. In Utah ('07 ch.21) legal notices and conveyances may be transmitted by telephone if certified to by an officer or employee of the telephone company.

*New York State Education Department*

**New York State Library**

REVIEW OF LEGISLATION 1907-8

LEGISLATION 392j

**ROADS**

1907 BY M. O. ELDRIDGE, OFFICE OF PUBLIC ROADS, UNITED STATES  
DEPARTMENT OF AGRICULTURE

1908 BY L. E. BOYKIN, OFFICE OF PUBLIC ROADS, UNITED STATES  
DEPARTMENT OF AGRICULTURE

**1907**

It is doubtful whether as many new laws and amendments to existing laws were passed in favor of any other branch of industry as were enacted in the interest of better roads during the year 1907. So far as can be ascertained about 270 separate laws were passed in 35 states. A great majority of these acts are local in character, some of them are simply intended to strengthen or to correct defects in existing statutes, while many of them are of great importance and will undoubtedly have a marked effect on road improvements.

The idea that the state should aid in the improvement of highways is still gaining ground. During the year state aid laws were adopted by Missouri, Washington, Idaho and Tennessee, and preliminary investigations have been inaugurated in West Virginia and Wisconsin looking to the adoption of the state aid plan. Constitutional amendments providing for state aid were submitted to the people of Wisconsin and Minnesota at the next election. Appropriations to actually build state roads were made in Colorado, Idaho, Utah and Washington, and state convicts are to be used in building roads in Colorado, Kansas and Washington.

It is also worthy of note that bonds are to be issued by the states of Massachusetts and Connecticut to raise money with which to aid towns in building roads and that counties or townships in Illinois, Michigan, Texas, California, New Jersey, Tennessee and Florida are authorized under certain instructions and limitations to issue bonds for road purposes.

Rates of taxation for roads have been increased in Arizona and New Mexico, and the cash tax system was adopted in South



Dakota. The importance of having all road work done under the direction of trained road builders has been recognized in Missouri and in Minnesota by the adoption of appropriate legislation. Arkansas has taken a step in the right direction by authorizing the contract system of working the roads, and Florida has by suitable legislation recognized the importance of having the cities and towns aid in the improvement of the roads leading into them. Legislation intended to stimulate the use of the split log drag was adopted in Illinois, Indiana, Kansas and Nebraska.

To consider all these laws in detail would be next to impossible in a paper of this kind, but an attempt has been made in the following paragraphs to give an outline of the most important measures. Dates and chapter numbers are given to enable the reader to secure more detailed information regarding any law in which he may be specially interested.

**Alabama.** An act approved March 6, 1907, authorizes the court of county commissioners or board of revenue of any county to levy special taxes for road purposes. The court is also authorized to transfer from the county treasury to the road fund any surplus not needed for general county purposes.

**Arkansas.** In counties where road funds are raised by taxation, the working of roads may be let by contract to the lowest responsible bidder ('07 no.273). A county road commissioner must be appointed and paid a reasonable salary by the highway commissioners in all counties adopting the contract system, and the county judge may appoint road overseers and pay them out of the county road fund. Roads are laid off and classified according to their importance by the county road commissioner, who also prepares plans and specifications for bridges, for graveling and for such other improvements as may be necessary. Contracts are awarded by the county judge and county road commissioner. The condition of all roads maintained by contract is reported quarterly to the county judge, who is authorized to withhold payment if roads are not built and maintained according to contract. Under this system all those who are required to work four days each year on the public roads must work for the contractor four days annually or pay him \$4. This labor or its equivalent in cash becomes part of the contractor's compensation.

Road improvement districts may be formed by the County Court ('07 no.144), provided the same is petitioned for by a majority in value of the landowners of a county or a part of a county. The

road affairs of such improvement district are managed by three directors elected by the landowners. The term of office is fixed at six years, one director being elected every two years. They are vested with authority to construct and maintain by contract or otherwise all roads in their district and to expend on this work not to exceed 25% of the value of the property in the district. They are also authorized to issue bonds to an amount not exceeding 20% of the value of the property, which bonds may bear interest at the rate of not to exceed 8% and mature within 30 years. The county treasurer is made the custodian of the funds and is allowed one half of one per cent for receiving and disbursing the same. General county revenues and special road taxes may be used by the County Court to supplement the funds provided by the improvement districts. This law only applies to 38 out of the 75 counties in the state.

Section 7289 of Kirby's *Digest* is so amended as to require overseers of road districts to give a receipt for all money collected instead of labor and to furnish a copy of all such receipts to the county judge ('07 no.358). These receipts must correspond with a quarterly statement furnished showing all collections and expenditures.

**Arizona.** The maximum rate at which taxes may be levied for road purposes was increased from 25 to 50 cents on each \$100 worth of property ('07 ch.95). Where road warrants are outstanding, the rate must not exceed 60 cents on each \$100, instead of 50 cents as heretofore.

**California.** The boards of supervisors are empowered, unless objection is made by a majority of the landowners, to establish road improvement districts, and to grade, gravel, macadamize, oil, or otherwise improve, roads, streets, or boulevards outside of incorporated cities or towns ('07 ch.442). Bonds may be issued for this purpose to extend 20 years and to bear not to exceed 7% interest. The bonds are paid for out of funds secured partly from county funds and partly from a special tax levied for the purpose on all property in the districts. This work is to be done by contract. The boards of supervisors are authorized to employ a civil engineer who is to prepare plans, specifications and estimates for the work. A "superintendent of work" may also be appointed who is to receive a salary of \$5 per diem.

**Colorado.** The use of state convicts is authorized ('07 ch.206) in the building of a state road from Trinidad in the southern part



of the state to Fort Collins in the northern part. This road is to be run through Pueblo, Colorado Springs and Denver. It is to connect on the New Mexico line with the old "Santa Fé Trail" at the northern end of what is known as "El Camino Real." This road is to be built under the direction of the board of commissioners of the State Penitentiary and according to plans and specifications of the State Engineer. The salary of the State Engineer and his assistants and the cost of all bridge materials are to be paid for by the counties in which the work is done. An appropriation of \$10,000 is made to pay for guards, foremen, tools, machinery, supplies and transportation.

An appropriation of \$15,000 is made out of the internal improvement fund to construct a road from Denver to Platte canyon ('07 ch.4). It is to be built by contract under the direction of a board composed of the Governor, State Engineer, the mayor of Denver, the city engineer of the city and county of Denver.

Properly organized road districts are made bodies corporate, and the office of road overseer is abolished in counties so organized ('07 ch.215). The county commissioners are authorized to appoint a superintendent of roads and bridges who may receive not to exceed \$5 per diem and who is to have charge of the construction and maintenance of bridges and such roads as come under the supervision of the commissioners. Upon petition of a majority of the qualified electors, county commissioners may organize any county into road districts. Three directors are elected by popular vote for each district every two years, who have charge of all roads and bridges, except those under the jurisdiction of county commissioners, and who may make contracts for work or materials. In counties so organized into districts, the county commissioners may levy a property tax for road purposes of not to exceed 50 cents on each \$100 of assessed valuation. Every able-bodied man in each district between 21 and 50 years of age is required to pay \$3 or work two days annually upon the public roads. The county commissioners are given sole power to establish new roads.

**Connecticut.** An appropriation of \$4,500,000 was made ('07 p.923) for the purpose of aiding in the improvement of the public roads under the state aid law. This money is to be expended under the direction of the State Highway Commissioner during the six fiscal years ending October, 1913, at the rate of not to exceed \$750,000 per annum. To provide funds necessary for this purpose the State Treasurer is authorized to issue bonds which



are to be paid in 22 annual instalments and are to bear interest at the rate of  $3\frac{1}{2}\%$ .

The salary of the State Highway Commissioner is increased from \$3000 to \$5000 per annum and his allowance for office expenses is increased from \$6000 to \$8000 per annum ('07 ch.188). An appropriation of \$29,000 was made for the salary, traveling and office expenses of the highway commissioner; \$50,000 for engineers, deputies, and inspectors; \$5000 for the operation and maintenance of state crushing plants, \$50,000 for making repairs to public roads ('07 special acts no.485).

The state aid law was so amended as to increase the proportion paid to the towns by the state toward the construction of state aid roads ('07 ch.264). Heretofore the state paid two thirds of the cost in towns having a taxable valuation of over a million dollars, and three fourths of the cost in towns having a taxable valuation of a million dollars or less. The new law provides that the state pay three fourths of the cost in towns having a taxable valuation of over a million and a quarter dollars, and seven eighths of the cost in towns having a taxable valuation of a million and a quarter dollars or less. Heretofore all contracts for state aid roads were let by the selectmen of the towns but the new law provides that such contracts be let by the State Highway Commissioner. He is also authorized to improve roads in any town in the state in order to connect up trunk line systems now under construction, the town's proportion of the cost of such roads being deducted from any subsequent appropriation. Heretofore the towns have been required to keep all state aid roads in repair but the new law provides that the State Highway Commissioner shall keep them in repair, the state paying three fourths and the towns one fourth of the cost of such work. The sum of \$25,000 is set aside annually to meet the state's share in this work.

**Florida.** In counties which are not operating under special laws, the rate of levy which may be assessed against all taxable property for road purposes has been increased from 3 to 5 mills on each \$100 worth of property ('07 no.82). One half the amount so assessed against property in incorporated cities and towns must be used for the construction and repair of streets. All able-bodied male residents between the ages of 21 and 45 who do not pay taxes on real or personal property are required to work five days each year on the public roads or pay \$1 for each of the

five days they do not work. Counties are authorized to issue bonds for road purposes.

**Georgia.** Any person may be exempt from the four days' road duty required by law by paying to the road overseer \$3 or such amount as the road overseer shall fix as being equivalent to four days' labor ('07 p.99).

Special road laws were enacted for the counties of Ben Hill, Chatham, Franklin, Greene and Gwinnett. These acts create and abolish boards of commissioners, establish methods of administration, provide for the collection and expenditure of road funds and for the use of convict labor on the roads, and in Fulton county for the issuance of \$300,000 worth of bonds for road purposes.

**Idaho.** An appropriation of \$5000 was made to complete the Atlantic road in Ada, Boise, and Elmore counties, provided an equal amount is contributed by subscription or otherwise ('07 p.172). This road was begun under an act passed in 1905, the construction being under the Intermountain Wagon Road Commission. It is to be completed by a commission composed of the Governor, the State Engineer and the State Mining Inspector. Twenty year four per cent state bonds are to be issued for this purpose. The principal and interest is provided for by a  $\frac{3}{8}$  of a mill tax on each \$100 worth of property in the state.

An appropriation of \$10,000 was made to aid in the improvement of the Elk City-Dixie road, the Elk City-Ora Grande road, for the building of bridges on these roads, for the purchase of the Kooshia and Tahe toll roads, and for the construction of a trail from Kelly mountain to the mouth of Bear creek, all in Idaho county ('07 p.242). A sum equal to the amount appropriated by the state is to be raised for this purpose by local subscription or otherwise. The work is to be done by contract by a commission composed of the State Engineer, one commissioner of Idaho county appointed by the Governor and one appointed by the board of county commissioners of Idaho county. The county commissioners are paid \$5 per day for their services. State bonds are to be issued for this purpose and paid for in the same manner as indicated in the preceding paragraph.

An appropriation of \$3000 was made to construct a road from Meadows, in Washington county, to Pyette lakes in Boise county, providing an equal amount is raised by Washington or Boise county or by private subscription ('07 p.251). This road is to be built by contract and by a commission composed of the State Engineer and



one commissioner from each of the counties of Boise and Washington, who are to receive \$5 per day for their services. Bonds are to be negotiated and paid for in the same manner as indicated above. County commissioners are authorized to grant licenses to companies or individuals for the construction and maintenance of roads on which tolls may be collected ('07 p.306).

The Governor, the State Engineer and the State Mining Inspector are constituted a "State Highway Commission" ('07 p.466) which is to have charge of all roads, bridges and trails constructed in whole or in part by the state. Where county commissioners fail to repair such roads, the State Highway Commission may after 30 days' notice lease the same to some company or individual and permit the collection of such tolls as may be necessary to keep the same in repair.

Each county commissioner is required to inspect all roads in the district from which he was elected at least once a year ('07 p.523). He shall require road overseers to maintain roads in good repair and it is made the duty of road overseers to report quarterly to the county board the condition of all roads, the quality and quantity of materials used, money expended and money needed for the ensuing quarter.

**Illinois.** The law of 1883 relating to stone and gravel roads is so amended ('07 p.503) as to provide that townships and districts may borrow not to exceed \$35,000 for the building of hard roads, provided the same is agreed to by a majority of the legal voters. These bonds may extend over a period of 10 years, the interest not to exceed 5% annually and the principal being provided for by taxation.

In counties not under township organization the compensation of highway commissioners is increased ('07 p.504) from \$1.50 to \$2 per day and they are required to keep all roads and bridges in their respective districts in proper repair, and in case they neglect to do so they are to be held personally responsible for all damages to persons or property caused by such neglect. Roads may be dragged with the split log drag in such a manner that the water will drain toward both sides. Highway commissioners who fail to keep roads in proper repair may be fined not less than \$50 nor more than \$200. In counties under township organization the compensation of overseers of highways is increased from \$1.25 to \$2 per diem ('07 p.508).



**Indiana.** The boards of county commissioners are authorized ('07 ch.45) to require the use of friction brakes on all vehicles. The use of deadlocks is made a misdemeanor and is punishable by a fine of not to exceed \$20 for each offense. An act approved March 9, 1907, (ch.180) provides that the cost of repairing bridges and culverts on rural free delivery roads may be paid for out of any funds in the county treasury. County or township road officials may be fined not less than \$1 nor more than \$25 for each day any rural free delivery road under their jurisdiction remains out of repair.

Township trustees are required to divide the townships into four road districts ('07 ch.210), but if the township exceeds 36 square miles it shall be divided into six districts. The division is made so that each will contain approximately the same number of miles of road, not including streets in incorporated cities and towns. A road supervisor is to be elected for each district in December of each year. He is to construct and maintain roads and bridges according to the direction of the township trustee, using in connection therewith the labor of all those required to work the roads. Roads are to be dragged whenever their condition makes it advisable. The supervisor is to receive \$2 per day for his services.

Section 90 of the act of 1905 is so amended ('07 ch.132) as to provide that in counties having less than 50 miles of gravel roads maintained under county commissioners, the annual levy for the maintenance of the same shall not exceed 3 mills on each \$100 for every 10 miles of road, instead of 10 mills on each \$100 as heretofore authorized.

**Iowa.** Boards of county supervisors of counties located on the state line are authorized to coöperate with road authorities of the counties of adjacent states in the construction and maintenance of roads on the state line ('07 ch.69).

**Kansas.** Township boards are authorized to have roads kept in repair by the use of the split log drag ('07 ch.289). Fifty cents per mile may be paid for each dragging or \$5 per mile per annum. In choice of persons to do the work occupants of land abutting the road are given the preference.

All section lines in the counties of Rice, Greenwood, Chase, Howard, Morris and Reno, are declared public roads ('07 ch.290). All section lines in the counties of Ellis, Phillips, and Decatur are declared public roads to a width of 60 feet ('07 ch.291).

The board of directors of the Kansas State Penitentiary are authorized to pave with brick the Kansas City road from the State Penitentiary to the southern limits of Leavenworth and to pay for the same by sale of brick manufactured at the Kansas State Penitentiary ('07 ch.297). The bricks are to be sold at the regular market price, and the road is to be from 24 to 36 feet in width. A state road is established between Hay City, Ellis co. and Fort Hays Military Reservation ('07 ch.296).

Several local bills were passed providing among other things for the organization of road commissions, for the levy of special taxes and for the improvement of specific roads. Most of the roads for which special acts were passed are in Shawnee township, Wyandotte co., and are near to Kansas City, Mo.

**Maine.** The state aid law was amended by the creation of a state highway department ('07 ch.112). The State Commissioner of Highways is to be appointed by the Governor and must be a civil engineer. He is to serve four years and receive a salary of \$2500 per annum and actual traveling expenses. An assistant commissioner is provided for who must be an experienced road builder and civil engineer and who is to receive \$1500 per annum and actual traveling expenses. Towns and other subdivisions of the state are required to set apart each year a certain amount of the road funds for the permanent improvement of the highways under the advice of the State Commissioners of Highways, the amount to be so set apart varying in certain proportions depending upon the taxable valuation. For every dollar so set apart by the towns or other subdivisions the state will give from 75 cents to \$2 depending also on the taxable valuation. Where the taxable valuation is less than \$100,000 the state will give \$2 for every dollar locally raised; where it is between \$100,000 and \$200,000 the state will give \$1.50; where it is between \$250,000 and \$500,000 the state will give \$1.25; and where it is between \$500,000 and \$1,000,000 the state will give 75 cents for every dollar locally raised. On all work requiring the expenditure of a thousand dollars or more of the joint funds, surveys, plans, specifications, and estimates are prepared by the State Highway Commission and the work is let by contract to the lowest responsible bidder. Contracts may be awarded to towns as to individuals. The State Commissioner of Highways may appoint inspectors to see that the work is done according to specifications. If less than \$1000 is to be expended the work may be done by the selectmen or other officers under



the superintendence of the state highway commission. In order to raise money to pay the state's share of the cost of this work a tax of one third of a mill on each \$1 of valuation is assessed annually on all property in the state. Any balance remaining unexpended at the end of any year may be added to the fund for the next year. After providing for the payment of all state aid applied for during any year the balance may be expended by the State Highway Commission in the construction of connecting roads so as to form a continuous system of state roads.

**Massachusetts.** An appropriation of \$2,500,000 was made ('07 ch.446) for state aid to be expended during the years 1908-12. Not more than \$500,000 is to be expended in any one year. Any unexpended balance may be used in the succeeding year. For the purpose of raising this money the issue of \$2,500,000 in scrip or certificate of indebtedness is authorized which is to bear interest at the rate of not exceeding 4% annually and to extend over a period of not to exceed 30 years. The interest and principal is paid out of a sinking fund provided for the purpose, the money being annually raised by taxation in the same manner as other state taxes are assessed and collected.

The construction and maintenance of highways running through two or more cities and towns may be paid for by the cities and towns in such a manner as they may agree upon ('07 ch.196).

**Michigan.** An act approved May 22, 1907, repealed several former acts relating to highway taxation and provided among other things for the levying of a road repair tax and a highway improvement tax. The road repair tax is to be used for repairs only and is assessed on all property in the township outside of incorporated cities and towns and must not exceed 50 cents on each \$100 worth of property. The highway improvement tax is to be used for the permanent improvements only and is assessed on all property including cities and towns, and must not exceed 50 cents on each \$100 worth of property. The rates of taxation are fixed by the electors at the annual township meeting. Commissioners of townships are required to report annually to the township boards amounts collected and expended improvements made, estimates for the ensuing year and recommendations concerning permanent improvements. The annual township meeting elects a road overseer who is to serve under the township highway commissioner. The township highway commissioner receives a compensation of from



\$3 to \$4 per day and the overseer from \$1.50 to \$2.50 per day, their compensation being fixed by the township meeting.

An act approved March 26, 1907, repealed the wide tire law.

Upon application of 25 legal voters, township boards may call elections for issuance of bonds ('07 no.47). Bond issues must be agreed to by 60% of all those voting. The value of such bonds must not exceed 5% of the assessed valuation of property and must be expended for permanent improvements only. They may bear interest at the rate of 5% and extend over a period of 25 years.

The former law providing for county and township systems of roads was amended ('07 no.82) providing that the new county road system may be submitted to the people for rejection or approval by the county board of supervisors. In counties adopting this system three county road commissioners are elected by the people, one each year for a term of three years. County commissioners are authorized to fix the tax for county roads at not to exceed 2 mills on each \$1 worth of property. Counties adopting this system may issue bonds to an amount not to exceed 3% of the valuation of property ('07 no.168).

Two or more townships, one or more villages, and one or more townships and one or more cities may organize into a road improvement district and operate under the county road law ('07 no.268), provided the same is agreed to by a majority of the legal voters.

**Minnesota.** An amendment to the state Constitution was proposed ('07 ch.478) which provides that the aid of the state be extended in improving public roads and that a tax of not to exceed one half a mill on the dollar be assessed on all property in the state to raise the money for this purpose. The amendment was submitted to the people at the next regular election, but in 1909 was declared by the Supreme Court to have been adopted at its submission in 1906.

A joint resolution was approved April 23, 1907, in favor of national aid in the permanent improvement of public highways. The Congress of the United States was requested to authorize the loan of public money for road improvement in such sums and under such conditions as may be deemed advisable.

Each county board is authorized ('07 ch.458) to appoint and fix the compensation of a competent county surveyor and road builder whose duty shall be to lay out, survey and superintend the construction and maintenance of all roads and bridges. The

present county surveyor may, if qualified, be appointed to this position. The office of road overseer is abolished, but the town board is authorized to appoint a competent road builder as road inspector who is to have charge, under the direction of the county superintendent of highways, of the construction and repair of all the town roads and bridges. He shall hold office during the pleasure of the town board and may with the consent of the board appoint one or more competent assistants.

**Missouri.** An act approved March 30, 1907, established a state road fund out of which to pay one half the cost of permanently improving roads, the other half to be raised by the county, districts, or citizens interested. Expenditures are to be made in the several counties in proportion to the assessed valuation of property but no state aid money is to be used to purchase rights of way or to pay damages.

An act approved March 8, 1907, provides that a complete record be made of every sale of stock or bonds of any corporation — cotton, petroleum, grain, provisions or other commodities, on margins or otherwise, and that the seller be required to place a stamp valued at 25 cents on each transaction. The stamps are provided by the State Auditor and all moneys derived from their sale are set apart for road purposes and are distributed among the various counties in the same proportion as the school funds are now distributed.

On March 30, 1907, an act was approved amending the former law in reference to the tax levied on dram shops. The amended law provides that a tax of not less than \$100 nor more than \$200 be levied on dram shops for state purposes, and that not less than \$250 nor more than \$400 be levied for county purposes, the amount to be fixed by the County Court levying the tax. The County Court is authorized to use two thirds of the county tax for road purposes and to expend the same in the various districts in proportion to road mileage. The court may, however, at its discretion, expend all the money in one or more districts. In Jackson county, of which Kansas City is the county seat, the County Court is required to use as much of the county dram shop fund as may be necessary for the maintenance of all macadamized roads in the county. In counties having a population of 50,000 or less the County Courts may at their discretion have the power to use such fund as a road and bridge fund, the money to be expended on the most important roads under the supervision of the road overseer of the district.



An act approved March 19, 1907, provides for the appointment of a State Highway Engineer who shall be a competent civil engineer and who shall have a practical and scientific knowledge of road building. He is to be appointed by the State Board of Agriculture for a term of four years and is to receive a salary of \$2400 per annum and actual traveling expenses. Deputy highway engineers having the same qualifications as the State Engineer may be appointed and their salaries fixed by the State Board of Agriculture. The State Highway Engineer and his deputies are subject to the orders of the State Board of Agriculture, which board is to compile, collate and publish information secured by the State Highway Engineer and his assistants. The State Engineer is authorized to investigate road conditions and materials throughout the state and to devise the best plans and methods of building roads and bridges and to give advice, specifications and estimates regarding the same to road officials. An appropriation of \$12,000 is made to pay the salary and expenses of the State Highway Engineer and his assistants.

On March 15, 1907, an act was approved providing that each County Court appoint a county highway engineer who shall have practical knowledge of civil engineering, bridge building and road construction. He is to serve for two years and receive a salary of not less than \$300 nor more than \$2000 per annum. He is required to devote his entire time to the work and is not allowed to engage in other occupations. The county surveyor may be appointed to this position, if qualified, but he is not to receive additional compensation except such fees as are provided for by law. The county highway engineer is to have the supervision of all public roads, bridges, culverts, machinery and tools in his county. He is to examine and approve all warrants before they are paid by the county commissioners and is required to inspect roads, bridges and culverts as often as possible and to see that the same are kept in good condition. The County Court may require him to make from time to time a report concerning the condition of the roads, the amount of funds available for each district, together with his recommendations. He is also required to furnish the State Highway Engineer with such information as may be requested from time to time. He is required to instruct all road overseers once a year at the county seat respecting the best methods of working the roads and of collecting and expending district road funds. Road overseers are required to follow such instructions. A map showing all county and



township roads accompanied by recommendations as to improvement needed is to be prepared and submitted to the County Court in January of each year by the county highway engineer. The construction and maintenance of roads and bridges may be contracted for by the County Court, the work to be done according to specifications and under the supervision of the county highway engineer.

In an act approved March 20, 1907, a number of previous laws regarding local taxation and matters of administration are repealed and new provisions enacted. Under this act the County Courts or township boards are required to appoint a road overseer for each district who is to receive a salary of not less than \$2 nor more than \$3 per day. A road poll tax of not less than \$2 nor more than \$4 per annum is to be assessed by the County Court or township board on all able-bodied citizens of certain ages outside of cities and towns. This tax may be worked out at the rate of \$1 per day. The County Courts or township boards may also levy a road tax on all real and personal property of not more than 20 cents on each \$100 worth of property. Road officials may enter land adjacent to the road for the purpose of opening and maintaining drains or procuring materials, but reasonable compensation may be allowed for damages or materials taken.

An act approved March 19, 1907, provides that road overseers may require roads to be kept in repair by the use of the split log drag and that they may pay not to exceed 50 cents per mile for dragging the road four times or twice each way, and not to exceed \$5 per mile per annum, except on rural free delivery roads, where not to exceed \$10 per mile per annum may be paid. In choosing persons to do this work preference is given to occupants of land abutting on the road. Road overseers are required to set aside not less than 10% of all road funds received to be used as an emergency fund in dragging rural free delivery roads.

An act approved March 21, 1907, provides that when incorporated cities, towns, and villages fail to elect officers to maintain a municipal government such municipality may be made a part of an adjacent road district, and taxes may be levied on such cities and towns, and the streets and roads constructed and maintained in the same manner as in other districts.

An act approved March 19, 1907, provides that upon petition of 100 taxpayers an election may be called by the County Court to decide whether bonds may be issued for constructing and maintaining roads or bridges. Two thirds of the qualified voters of the

county must vote for such indebtedness before the bonds can be issued. The bonds may bear interest at not to exceed 5% and shall be free from taxation. They must mature within 20 years and the interest and one twentieth of the principal must be paid each year out of a fund raised for the purpose by taxation. All work done under this act must be constructed according to plans and specifications prepared by an engineer employed for the purpose by the County Court. The County Court is authorized to direct the county survey or to superintend the construction and see that the work is done according to contract. Under the new law these duties will probably devolve upon the county highway engineer.

**Montana.** The sum of \$5760.90 which was received from the United States Treasurer for forest reserves was distributed among the various counties ('07 ch.127), one half of which is to be used for the improvement and maintenance of roads and the other half for schools. This money was turned over to the state by the Secretary of the Treasury in pursuance of a clause in the agricultural appropriation bill of 1906 which provided that 10% of all money hereafter received from each forest reserve be turned over to the state in which the reserve is located to be expended as above indicated.

**Nebraska.** Road overseers are authorized to maintain roads by the use of split log drags such work to be done by contract or otherwise ('07 ch.112). The forest reserve fund, referred to in the preceding paragraph is to be apportioned among the counties in proportion to the area of forest reserves in those counties.

**Nevada.** Special laws were passed for Humboldt ('07 ch.64) and Elko ('07 ch.66) counties, providing for the appointment of a county road supervisor and fixing the compensation of road laborers.

**New Hampshire.** The state aid law was so amended ('07 ch.60) as to provide that all state aid road work be done according to specifications furnished by the Governor and council, and that where the amount to be expended for this purpose exceeds \$1000 the work shall be done by contract. The Governor and council may let such contracts to the authorities of the town or city in which the road is located, provided they are prepared to do the work satisfactorily. The Governor and council are authorized to purchase land on which road materials are found, the same to be paid for out of the state aid fund. Materials so secured may be sold to cities and towns at reasonable prices.



**New Jersey.** A joint resolution (p.732) was passed, which provides for the appointment of a nonpaid commission composed of five persons to investigate the high price of stone and the increased cost of stone roads, the advisability of the state owning and operating its own crushing plants, and the cost of purchasing quarries and suitable machinery. An appropriation of \$1000 to pay clerk hire and other expenses was made. The commission is authorized to report its findings and recommendations to the Governor on January 1, 1908.

Thirty-year four per cent bonds may be issued for the repair of roads, avenues and streets in towns, townships, or boroughs, provided the cost of making the original improvement was paid for by an assessment on the property specifically benefited, and provided further that the bond issue is agreed to by a majority of the legal voters ('07 ch.115).

**New Mexico.** Boards of county commissioners are authorized to divide their counties into not more than three road districts and to appoint a road overseer for each, whose compensation shall not exceed \$3 per day ('07 ch.53). The rate of taxation for road purposes may be increased from two mills to three mills on each dollar's worth of taxable property and every able-bodied man between 21 and 60 years of age is required to pay a road tax of \$3 or work three days on the road. The old law required them to work from three to five days or pay \$1 for each of the days they did not work.

**New York.** Paragraph 53, chapter 568 of the law of 1890 was amended ('07 ch.716) by establishing a new basis under which state aid is extended for repairs to the towns which have adopted the money system. Heretofore the state paid 50 cents for every dollar in cash locally raised for the repair of roads in the money system towns, but hereafter the aid given will be based on the assessed valuation of property per mile of highway not including cities and towns. For every dollar locally raised in cash and where the valuation is \$5000 or less the state will pay \$1

From \$5000 to \$7000 the state will pay 90 cents

From 7000 to 9000 the state will pay 80 cents

From 9000 to 11,000 the state will pay 70 cents

From 11,000 to 13,000 the state will pay 60 cents

From 13,000 or more the state will pay 50 cents

but in no case will the state pay more than \$25 for each mile of road in a town except where the valuation exceeds \$25,000 per mile



of road, when the state's share shall not exceed one tenth of 1% of the assessed valuation of property. Under this sliding scale arrangement it will be observed that the poorer towns will receive a greater amount of aid from the state than the richer ones. An appropriation of \$730,000 was made ('07 ch.336) for paying the state's proportion of the cost for the repair of highways pursuant to the above arrangement.

Appropriations for salaries of State Engineer and assistants were as follows: State Engineer \$5000, deputy \$4000, chief clerk \$3000, land clerk \$2000, canal clerk \$1800, record clerk \$1100, three stenographers at \$1000 each, one messenger \$600, one watchman \$540. An appropriation of \$30,000 was also made for supervision of expenditures in money system towns.

An appropriation of \$100,000 was made ('07 ch.578 p.1287) for repair and maintenance of state aid roads. An appropriation of \$57,105.32 was made to reimburse several counties for the maintenance of state aid roads.

Several changes were made in the state aid law ('07 ch.717) but none of them are material, and the fundamental principles of the law remain the same.

The law of 1906 which provides for the sale of bonds for road purposes was amended ('07 ch.718) by striking out paragraph 3 which provides that bonds be issued in two classes, A and B. Class A bonds were to have been redeemed by the state and class B by the counties. The basis on which taxes are to be collected for paying interest and principal on the bonds is also changed, the rate depending on the rate of interest the bonds bear.

An appropriation of \$240,000 was made for the purpose of paying the annual instalment on state aid road improvement bonds ('07 ch.530), this being the amount derived from the special tax levied for the purpose. An appropriation of \$175,000 was made out of the sinking fund to pay interest and principal on said bonds ('07 ch.533).

An appropriation of \$200,000 is made for the maintenance of roads as provided for by the laws of 1898 and 1906 ('07 ch.170). The Legislature adopted the map prepared by the State Engineer showing the roads which it is proposed to improve under the state aid law ('07 ch.715). Hereafter state aid will not be extended to any roads which are not shown on this map except by special legislative enactment.

**North Dakota.** Boards of trustees of villages are authorized to assess taxes for streets and roads in such villages ('07 ch.267). This tax must not exceed 5 mills on each \$1 of assessed valuation and is in addition to the 10 mill tax heretofore authorized. This tax may be worked out at the rate of \$1.50 per day.

**Oregon.** A joint resolution was approved February 18, 1907, requesting the Congress of the United States to pay \$10 per mile per annum for the maintenance of all roads on forest reserves in the state, such money to be paid to the County Courts of the county in which the roads are located and to be expended under their supervision.

Breaks and leaks in irrigation ditches which cause the water to overflow and injure the public roads must be repaired by the owners of such ditches within six hours after having been notified to do so by the road supervisor in whose district the break is located ('07 ch.165). If the leak is not repaired the supervisor may have it done and charge the same to the owner of the ditch.

**Pennsylvania.** The state aid law was amended ('07 no.325) increasing the salary of the State Highway Commissioner from \$5000 to \$6500 per annum and allowing him actual expenses instead of \$1000 per annum. A deputy who shall be a competent civil engineer and an expert road builder is also provided for. He is to receive a salary of \$3600 per annum and actual traveling expenses. The number of civil engineers who may be employed is increased from six to twelve and the salary of each is increased from \$2000 to \$2400 per annum. One chief draftsman at \$2400 is provided for and three assistant draftsmen, instead of two as heretofore, their salaries being increased from \$1500 to \$1800 per annum. The salary of the chief clerk is increased from \$2000 to \$2400 per annum. Additional clerks and stenographers at \$1000 per annum may be appointed when necessary.

Hereafter state aid may be extended to incorporated towns as it has heretofore been extended to boroughs in the building of continuous state aid roads, provided the towns pay one fourth of the cost of construction. Contractors may now be paid 90% of the contract price upon completion of the work instead of 75%, as heretofore, 10% instead of 25% being withheld until the work is accepted. The provision giving county commissioners authority to select the kind of materials with which state highways are constructed was omitted. The state is to pay three fourths of the cost of maintaining state highways instead of one half the cost as



heretofore. In case counties, townships, boroughs or towns fail to keep state highways in proper repair the State Highway Commissioner may have the same repaired and require the proper authorities to pay the balance. The commissioners of any township and the councils of any borough or city may appoint a nonpaid shade tree commission consisting of three persons whose duty it shall be to plant, remove or protect shade trees on all the public highways ('07 no.251). The cost of planting and of incidental expenses connected therewith is borne by the owner of the property abutting on the road. The cost of maintenance is borne by a special tax levied for the purpose of not to exceed one mill on the dollar. The powers and duties of the shade tree commission may be assumed by park boards wherever such boards exist.

Companies operating toll or other roads may be dissolved by the Courts of Common Pleas ('07 no.270) after sufficient taxes or tolls have been collected to pay the interest and principal on the original investment. The act providing for the construction and maintenance of side paths being decided unconstitutional by the Supreme Court, all moneys levied for that purpose must be transferred to the general fund of the counties in which it was collected ('07 no.8).

**South Dakota.** An act approved March 9, 1907 ('07 ch.162) provides that all road taxes be paid in cash and that \$1.50 in cash be paid annually by all those who would be by law subject to road duty. Before becoming operative, however, this law must be agreed to by a majority of the legal voters. This law also abolishes the office of road overseer and provides that the duties heretofore performed by such overseer may hereafter be performed by the township supervisors or by persons employed by them.

**Tennessee.** The appointment of a State Highway Commissioner and two assistants was provided for ('07 ch.560). The State Highway Commissioner is to receive a salary of \$2500 per annum and the assistant commissioners \$2000 per annum. They are to be appointed by the Governor, one from east, one from middle and one from west Tennessee, and their term of office is fixed at two years. An annual appropriation of \$500,000 is authorized with which to improve the most important roads in the various counties and elaborate provisions are made for the inauguration of this work, but the appropriation must be paid "out of the surplus after paying the amount appropriated to public schools."



It is understood that there was no surplus and consequently that the law has not yet gone into effect.

Five acts were passed authorizing counties to issue bonds for road purposes and providing regulations for holding elections for issuing the bonds and for the assessment of taxes to pay the interest and principal. The counties authorized to issue bonds and the amounts which may be issued are as follows:

Fayette county .....	\$200 000 ('07 ch.526)
Greene county .....	150 000 ('07 ch.525)
Washington county .....	300 000 ('07 ch.483)
Roane county .....	60 000 ('07 ch.150)
Madison county .....	200 000 ('07 ch.491)

Special laws were passed for the counties of Giles, Hawkins, Knox, Lauderdale, Madison, Maury, Morgan, Montgomery, Obion, Scott, Shelby, Smith, Sumner, Tipton and Wilson.

**Texas.** Any county or political subdivision thereof is authorized to issue bonds for constructing and maintaining public roads ('07 ch.134), provided the same is agreed to by a two thirds majority of those voting. The value of bonds must not exceed 25% of the value of real property. They may extend 40 years and bear interest not to exceed  $5\frac{1}{2}\%$ . A tax of not more than 15 cents on each \$100 may be levied to pay interest and principal.

**Utah.** A state appropriation of \$2000 was made for the improvement of roads in Juab county ('07 ch.165). The money is to be expended under the direction of the Juab county commissioners.

**Washington.** A State Highway Board composed of the State Highway Commissioner, the State Auditor and the State Treasurer was created ('07 ch.149). The State Highway Commissioner must be a capable and experienced civil engineer and surveyor and is to receive a salary of \$2500 and not to exceed \$1000 for expenses. The employment of civil engineers, draftsmen and other assistants is authorized. The state board is to have charge of the construction of all state roads and is to apportion the amounts appropriated for state roads among the various counties.

A state aid law very similar to the Higbie-Armstrong law of New York was adopted ('07 ch.450). As in New York the state pays one half of the cost, the balance being a charge on the counties, the civil subdivisions of counties and the property benefited. An appropriation of \$135,000 was made out of which to pay the state's

share of the cost. State aid roads are to be built by contract let by the State Highway Board and are to be maintained by the counties under the direction of the State Highway Commissioner. In districts where such roads have been built all road taxes must hereafter be paid in cash. An amendment to an act passed in 1905 provides for a tax of one half of a mill on each dollar's worth of property in the state for the purpose of raising money to be used in the construction and repair of highways and bridges ('07 ch.18).

An appropriation of \$225,000 was made to pay for the construction of 13 state roads ('07 ch.151). These roads are located in sparsely settled regions and the entire expense of engineering and construction is paid by the state. They are called "state roads" while those built in coöperation with the counties, districts and property owners are called "state aid roads." An appropriation of \$42,142.75 was made to complete 10 other state roads ('07 ch.72). The State Highway Commissioner is authorized to survey and report upon the advisability of constructing five roads specifically mentioned ('07 ch.116). Convicts confined in the State Penitentiary and not otherwise employed may be used in the construction of state roads, the cost of their guarding, transportation and maintenance to be paid from the fund appropriated for each particular road.

**Wisconsin.** The State Geological and Natural History Survey is authorized ('07 ch.641) to investigate road conditions throughout the state, to conduct experiments, and to collect and disseminate information regarding the best kinds of materials and the best methods of constructing roads and bridges. It is also authorized to collect information regarding the mileage of roads, methods of administration, road expenditures, etc. An appropriation of \$10,000 was made to defray the expenses of this investigation.

The Legislature of 1905 proposed and agreed to an amendment to the state Constitution which provided that the state may appropriate money to aid in the improvement of the public roads. This amendment was ratified and agreed to by the Legislature of 1907 (ch.238), and was submitted to the people in November 1908, and adopted.

County boards are authorized to elect a competent highway commissioner who shall hold office three years and whose salary shall be not less than \$2.50 nor more than \$4 per diem, the same to be fixed by the county board and to be paid out of the general county fund ('07 ch.487). The highway commissioner shall exercise gen-



eral supervision over all county highways and in coöperation with the chairman of each town is required to make an annual report of expenditures and of work done to the county clerk before the annual meeting of the county board. The county board is authorized to designate and map out a system of county roads which shall extend into every town in the county and constitute continuous lines. A tax of not to exceed three fourths of a mill on each dollar's worth of assessed property may be levied for the purpose of raising money with which to construct and repair county roads. 10% of this money is to be set aside for repairs. County roads may be constructed and repaired by contract.

In order to encourage the use of wide tires a rebate of one half of road taxes will hereafter be received by those using such tires ('07 ch.479). For wagons carrying 1000 pounds or over and having tires 3 to 3½ inches in width \$2 will be allowed, but \$3 will be allowed if the tires exceed 3½ inches in width.

**West Virginia.** The Governor is authorized to appoint a State Highway Inspector who is to serve two years at a salary of \$2000 per annum ('07 ch.60). His actual traveling expenses not to exceed \$1000 per annum are also to be paid by the state. He is required to investigate road conditions throughout the state and to recommend to the Governor and the next session of Legislature such changes in road laws as in his judgment will remedy existing defects. He is also required to make a complete report regarding road mileage and conditions, revenues and expenditures, and methods of road administration in every county. The chemical and engineering departments of the State University and the State Board of Agriculture are authorized to coöperate with him.

### 1908

Comparatively few of the state Legislatures were in session in 1908 but in spite of this fact quite a large number of laws were passed relating to the public roads, Virginia leading in this respect with 48. The Legislature of Maryland enacted 26 laws, Ohio 15, Vermont 12, New Jersey 12, South Carolina 9, New York and Massachusetts each 8, Georgia 6, Mississippi and Kentucky each 5, and Rhode Island 2, a total of 156.

A large proportion of this legislation was of a special character relating to individual counties and is not referred to in the digest by states given below.



Georgia. Act no.452 (p.99) changes the minimum age limit for those liable to road work and commutation tax from 21 to 18 years.

At the extra session of 1908 a new convict labor law was enacted ('08 ex. sess. p.1119) providing that all male felony convicts, except such as are now required by law to be kept at the state farm, may be employed by the authority of the several counties and municipalities upon the public roads, bridges or other public works thereof. On or before the 10th day of February annually the Prison Commission shall communicate with the county authorities of the state and ascertain those counties desiring to use convict labor upon their public roads, and said county authorities shall advise the Prison Commission in writing whether they desire to so use such labor and the number desired. The convicts shall be apportioned among the counties according to population. Convicts may be awarded to counties other than the one in which the conviction was had. One county may, upon the approval of the Prison Commission, deliver its quota of convicts to another county to be used on the roads and bridges thereof, the counties so receiving such convicts to have the right to compensate the county from which the convicts come with work upon its roads or by the exchange of an equal number of convicts.

The Prison Commission is authorized, when in funds, to purchase road machinery appliances and teams and to equip and organize road-working forces, the same to be used for the construction and repair of roads and bridges in the counties not using their convicts under the preceding sections, when requested by the authorities thereof so to do, the work to be done as nearly as practicable in proportion to the convicts which would have been assigned to each county in case the county had worked its convicts, but as many convicts in addition to said proportion may be worked as any county is willing to pay the expense of and as the commission may have at its disposal. The county in which convicts are worked shall pay the expenses thereof including maintenance of equipment and all material required for the work done in the county. If all convicts are not disposed of under the preceding provisions the Prison Commission is authorized to place convicts in counties desiring to use them in excess of their quota. If after the counties have been provided with convicts there shall still remain any convicts not otherwise disposed of, then the privileges conferred upon counties herein shall be extended to municipalities which may hire convicts from the Prison Commission at the price of \$100 per capita per annum.

Any county may purchase, rent and maintain a farm and cultivate same with convict labor in connection with working its convicts on its public roads and bridges, all products and supplies arising from said farm to be used for the support of the convicts, improvement of its public roads and bridges and in support of county institutions. And the same may be done for a like purpose by the Prison Commission on behalf of the state.

All convicts and all convict camps shall be under the direct supervision of the Prison Commission which shall prescribe rules and regulations for governing same subject to approval by the Governor.

The net proceeds from the disposition of convicts to municipalities or otherwise shall be used by the Prison Commission in working convicts upon the public roads or works of counties not electing to utilize their allotment of convicts, at the option of the commission, and in case the commission shall elect to work the roads in any one or more of such counties, then the pro rata of such funds for those counties shall be paid into their respective treasuries to be used for road purposes only.

Not to exceed four supervisors may be employed by the Prison Commission, if deemed necessary, who shall visit the various counties, inspect the convicts and their work and perform such other duties as may be required of them. If practicable civil engineers shall be selected for these positions and the salaries shall not exceed \$150 per month and actual traveling expenses. The commission shall also appoint such wardens and guards as may be necessary, and the pay of a guard shall not exceed \$50 and that of a warden \$100 per month.

**Kentucky.** The law relating to poll tax was amended by chapter 26 so that the poll tax of \$1.50 or less levied on each male of 21 years of age may be applied to the maintenance of the public roads of the respective counties.

An amendment to the Constitution was voted by the Legislature (ch.36) to be submitted to the people at the next election providing that the credit of the commonwealth may be given to any county for public road purposes and that any county may incur any amount of indebtedness not in excess of 5% of the value of the taxable property therein for public road purposes, provided such additional indebtedness is approved by the voters of the county at a special election, and that when such indebtedness is incurred the county shall levy an additional tax, not exceeding 20 cents on the hundred



dollars, for the purpose of paying interest and providing a sinking fund.

Chapter 42 provides that the supervisors, or if there be none the county judge, in counties working their roads by taxation may receive bids and award to the lowest responsible bidder the keeping in repair of all roads in the county for a term of not less than one or more than four years. Similar contracts may be let for building and repairing bridges and culverts.

**Louisiana.** A concurrent resolution was adopted by the Legislature authorizing the appointment of a joint committee to consist of nine members from the House and six from the Senate to devise ways and means for a better system of working the public roads of the state of Louisiana ('08 no.6).

**Maryland.** A very important amendment was made (ch.141 p.247) to article 91 of the Code of 1904 by providing that the Governor shall appoint three citizens of the state and designate two more from the Maryland Geological and Economic Survey, who, with the Governor ex officio, shall constitute the "State Roads Commission," the Governor having authority to remove any member of the commission and appoint any person in his stead. Each member except the Governor, the chairman and the two members from the Maryland Geological and Economic Survey shall receive a salary of \$2000 per annum, and the chairman \$2500 per annum. A secretary shall be appointed at a salary of not to exceed \$1800 annually. The commission is authorized to appoint engineering and other assistants and fix their compensation.

The commission is directed to select, construct and maintain a general system of improved state roads through all the counties of the state the selection to be made on or before May 1, 1909. The commission may make all necessary preliminary work, surveys, estimates, plans, specifications etc., and shall adopt such method or system of construction, improvement and development as it shall think best, and is authorized to condemn, lay out, open, establish, widen, straighten, grade and improve in any manner any main road of the system in any county and acquire any private road or private property or rights of drainage for public use.

Work to cost less than \$500 need not be let out to contract but over that sum must be let to contract, after advertisement, to the lowest bidder. Roads constructed under this act shall be kept in repair by the commission, but the counties shall have police jurisdiction.



The commission is required to complete a general system of roads within seven years from July 1, 1908, and the sum of \$5,000,000 is appropriated therefor, not to exceed \$1,000,000 to be expended in any one year. Three and a half per cent bonds of the state may be issued to raise said amount. The proceeds are to be expended in the various counties in proportion to the road mileage therein, but this does not mean that a certain amount shall be spent in each county each year but is intended to provide eventually a fair distribution of the funds.

To meet the interest and create a sinking fund the county commissioners of the state and the mayor and city council of Baltimore shall levy a state tax for 1909 at 2 cents on each \$100 of assessed valuation; 1910, 3½ cents; 1911, 4½ cents; 1912, 5½ cents; 1913 and annually thereafter 6 cents.

Chapters 240 (§ 355 p.57) and 451 (p.73) provide that if any toll road or turnpike company fails to keep its roads in repair, it shall forfeit its charter.

Chapter 304 (p.258) made appropriation for the completion of the state road from Baltimore city to Washington, D. C.

Chapter 332 (p.989) authorizes the working of convicts on the public streets and highways in St Mary's county.

**Massachusetts.** An appropriation of \$36,300 was made for the salaries and expenses of the Massachusetts Highway Commission; \$30,000 for expenses in connection with the registration of motor vehicles and licensing operators thereof; \$7000 for suppressing the gypsy and brown tail moths on state highways; and \$100,000 for maintenance of state highways ('08 ch.212).

Section 17 of the act creating the Massachusetts Highway Commission was so amended that the commission shall not allot in any one year to any town of less than \$1,000,000 assessed valuation and which makes no appropriation under said section as amended, more than 40% of its average annual appropriations for highway purposes for the preceding five years, unless the average annual appropriation shall not exceed \$1000, in which case \$400 may be allotted to such town ('08 ch.279).

A penalty of from \$5 to \$100 is provided against any one who without authority cuts down, trims or removes any tree, shrub or growth within the limits of state highways ('08 ch.297).

All fees arising from the regulation and registration of automobiles and motor cycles, after paying the expenses of enforcing such regulation and registration, shall be expended for the maintenance of state highways, such expenditure not to be subject to

section 16 of the general state aid law, nor shall the counties be required to repay the state any part of the expenditures out of such fees ('08 ch.642).

Any member of the Massachusetts Highway Commission in administering the laws and regulations relative to automobiles and motor cycles may summon witnesses *duces tecum* and take depositions. The commission may appoint not to exceed four investigators and examiners and may remove them for cause, such investigators and examiners to exercise throughout the state, with respect to the enforcement of all laws relative to automobiles and motor cycles all the powers of constables except service of civil process and of police officers and watchmen and may serve all processes lawfully issued by said commission. The commission may investigate automobile and motor cycle accidents, and if any person is killed by any such accident shall forthwith suspend the license of the operator and shall revoke such license unless it shall appear on investigation that it was no fault of the operator. A license so revoked shall not be renewed within six months. The registration fee is \$2 for each motor cycle, \$5 for each automobile and \$2 for each automobile to be operated for hire ('08 ch.648).

**Mississippi.** Chapter 109 abolishes the leasing of convicts and authorizes the boards of supervisors to work such convicts on a county farm or farms, or on the public roads or other public works, or to keep them in jail; and this applies to municipalities also and they may so work persons convicted of violating their ordinances. Sexes and races are to be separated and worked separately. No convicts shall be let to contractors. Sections 839-41, 846-52, 854-55, 861, 865-67, 870-72, 875-76 of the Code of 1906 are repealed.

Chapter 126 provides that roads leading from state farms to the nearest depot through which shipments are made shall be kept in good condition by the convicts on such farm.

**New Jersey.** The salary of the supervisor to assist the State Commissioner of Public Roads is fixed at \$3600 and he is required to be a competent civil engineer ('08 ch.88).

The act providing for the permanent improvement of public roads in this state (Revision of 1905) is amended so that when two thirds of the owners of the land and real estate, either in lineal feet or area, fronting on any public road or section thereof shall petition the board of chosen freeholders for improvement of same, setting forth that the township or other municipality in which



the same shall lie has appropriated 10% of the estimated cost of said road, it shall be the duty of the board to make such improvement, provided that the road or section thereof to be so improved shall be at least 1 mile in length or be an extension of or connection with some other permanently improved or paved road or street ('08, ch.53).

A further supplement to an act entitled "An act to authorize the board of chosen freeholders of any of the several counties of this state to lay out, open, construct, improve and maintain a public road therein," approved April 7, 1888, is enacted ('08, ch.69) authorizing the board to reinforce, relay, reconstruct or rebuild any portion of a road improved and maintained under the provisions of the act to which this is a supplement, or the acts supplementary thereto and amendatory thereof, after making financial arrangements for same with the body vested by law with the finances of the county. For raising funds therefor bonds of the county may be issued, provided that the total cost shall not exceed two tenths of 1% of the total assessed valuation of said county. Work to cost over \$1000 shall be let to contract, after advertisement, in the same manner as prescribed for work authorized under the act to which this is a supplement. This act, however, does not authorize the expenditure for this purpose of the regular maintenance and repair fund of the county secured by the sale of bonds therefor.

Chapter 238, laws of 1908, vests authority in the board of chosen freeholders of counties to acquire by gift, purchase or condemnation any real estate in the county that may be necessary for the purpose of laying out, opening, widening, straightening, altering, changing the grade or location of or otherwise improving any public highway under its control, and in case of condemnation of such real estate the board of chosen freeholders shall make application therefor to a justice of the Supreme Court or to a Circuit Court judge to appoint three disinterested freeholders as commissioners to fix the compensation to be paid for such land and property, under oath, and report same to the court, after which the proceedings shall be the same as in other cases of taking property by condemnation in this state.

Hereafter all roads and driveways on lands owned by the state shall be constructed and maintained by the State Commissioner of Public Roads at state expense and roads already constructed on such lands shall hereafter be maintained by the commissioner at state expense ('08 ch.295).



The law relating to motor vehicles is amended ('08 ch.304) making the assistant Secretary of State ex officio commissioner of motor vehicles and giving him charge of the enforcement of the laws relative thereto, and he shall appoint a chief inspector of motor vehicles and not to exceed 10 other regular inspectors and not to exceed 20 citizens as special inspectors, and fix the compensation of all such inspectors. The commissioner of motor vehicles shall receive \$1500 in addition to his salary as assistant Secretary of State and the chief inspector shall receive \$1500.

The registration of automobiles shall be in the following manner: A statement in writing shall be made to the commissioner of motor vehicles, containing the name and address of the owner, a brief description of the character of the automobile, the name of the maker and the manufacturer's number, and the rated horsepower. The applicant shall pay a registration fee of \$3 for automobiles of 10 horsepower or less; \$5 for those of from 11 to 29 horsepower; and \$10 for those of 30 horsepower or over. A registration fee of \$2 shall be paid for motor cycles which shall include the right to operate them. Persons or corporations operating automobiles for carrying passengers, which business shall be conducted in an adjoining state but which requires such automobile to enter this state, shall pay an annual fee of \$100, and the speed of such automobiles shall not exceed 15 miles per hour nor shall there be more than 15 such automobiles in this state at any time. Dealers or manufacturers are issued registration certificates under which may be operated five automobiles and the fee shall be \$5 for each automobile operated thereunder. Fees for licenses to operate automobiles may be charged as follows: \$2 to operate a machine of less than 30 horsepower and \$4 for those licensed to operate machines of over 30 horsepower. There are the usual provisions as to lights, gongs etc.

The moneys received for such registrations, licenses and fines shall be paid over to the Treasurer of the State and appropriated annually to the commissioner of public roads to be used in repair of the improved roads throughout the state whether originally constructed by state aid or not ('08 ch.304).

Whenever the board of chosen freeholders of any county shall acquire any toll or turnpike road either by purchase or condemnation or shall enter into a contract for improving the same, it may raise funds therefor by the issuance and sale of its corporate bonds, such bonds to bear 5% interest, be payable within 30 years, and be

sold for not less than par ('08 ch.13). Also it is provided ('08 ch.287) that whenever the board of chosen freeholders of any county shall adopt such road as a county road and be charged with the repair and maintenance of same, it may by resolution authorize the issuing of bonds for the purpose of obtaining funds therefor, the amount of such bonds not to exceed \$200,000 in any one year, the work to be let out by contract to the lowest responsible bidder after due advertisement. After such work of improvement shall be completed commissioners shall be appointed by the Circuit Court, on application of the board, to determine the benefits accruing therefrom to the street railway, if any, running through such road and to the lands and real estate fronting or bordering on the road, and assess such benefits upon the property, provided that not more than two thirds of the total cost of such improvement shall be so assessed against such property.

**New York.** An act was passed consolidating the highway laws of the state and providing for a state department of highways and for the construction and maintenance of state and county highways ('08 ch.330). The State Highway Department provided for in this law consists of three commissioners to be appointed by the Governor, with the consent of the Senate, term of office six years, one of the members to be a civil engineer; the salaries to be \$6000 for the chairman and \$5000 for the other members in addition to traveling expenses, one of the commissioners to belong to the next to the largest political party. The commission is authorized to appoint deputies, secretary, clerks etc.

The commission has control of all highways and bridges built with the aid of the state and is required to divide the state into not more than six divisions each to be in charge of a division engineer.

The board of supervisors of any county are authorized to appoint a county superintendent, or if the supervisors do not appoint a superintendent the commission shall place such county in a district with other counties and appoint a district superintendent, such superintendent to have charge of all highways and bridges in a district or county.

A superintendent of highways shall be elected for each town at the biennial town meeting unless the town votes to have such superintendent appointed by the town board.

A system of state roads is provided for the entire cost of which is to be paid by the state, provided that the total expenditure on these state roads shall not exceed one half of the total appropriation from



the proceeds of the state bonds issued for the construction of highways.

The law provides for the abolition of grade crossings when practicable.

Each township is required to pay toward the maintenance and repair of state and county highways the sum of \$50 annually for each mile or major portion of a mile of the state and county highways therein, the state to pay the balance. Such roads as are located within corporate limits of a village shall be maintained by the board of trustees at the expense of the village.

The sum of \$3,000,000 was appropriated for road improvement during the year to be paid from the proceeds of the bonds issued. \$430,000 was appropriated to pay the interest on the state indebtedness for highway improvement, \$32,000 for repairing certain designated highways, \$100,000 for the maintenance and repair of improved highways to become available January 1, 1909, and \$113,375 for salaries and expenses incident to the establishment of the State highway department January 1 to September 31, 1909. Several minor appropriations were made.

**Ohio.** An act was passed providing that whenever any railroad company constructing a new railroad or changing the location of a railroad theretofore constructed, or any municipality or authority constructing a new highway, shall desire that the railroad or highway shall be so constructed as to cross each other at the same grade, or if it is desired to divert, change or alter any existing public highway, a petition shall be presented by the party desiring same to the Court of Common Pleas of the county wherein same is located and the other party shall be defendant, and the proceedings shall be the same as in civil actions in such court except that such actions shall be given precedence over other civil actions. The right of appeal to the Circuit Court exists as in civil actions ('08 p.58-59).

The act creating the State Highway Department was so amended ('08 p.308-20) that the State Highway Commissioner may appoint three competent civil engineers at a salary of \$1500 per annum and actual traveling expenses, and the salary of the assistant commissioner is increased to \$1800 per annum. Also the state is to pay one half the cost of highways improved under the provisions of this act as against one fourth heretofore. The levy by the county commissioners for the state and county road improvement fund is increased from five tenths of a mill to one mill on the dollar. An



appropriation of \$440,000 was made ('08 p.551) for state aid in road improvement.

Sections 4925 and 4926 of the Revised Statutes were amended ('08 p. 353) so that only a majority, instead of two thirds as heretofore, of all landowners residing in the county within the bounds of any state road, county road, township road or turnpike road are required to petition the county commissioners for an extra tax for constructing, improving or repairing such road, and the commissioners may levy such tax as they may think necessary after notice and full hearing not to exceed five mills, instead of six mills as heretofore, on all the taxable property, real and personal, within not exceeding 1 mile on either side of such road and in no case more than one half of the distance from such road to any other such road running parallel or nearly parallel thereto. If such levy is made it shall run for the time petitioned for, not exceeding five years, unless at the expiration of the first five years a renewal for five more years is petitioned for, and the county commissioners shall appoint three freeholders of the county, resident within the bounds of such road, who shall constitute a board of road commissioners to have charge of the improvement of the road. Bonds may be issued in anticipation of the money to be raised by such tax.

An act was passed ('08 p.468-70) amending sections 5 and 18 of an act entitled "An act to authorize the improvement of public roads of townships including streets of cities or villages therein, and to repeal sections 1 and 25, inclusive, of an act passed April 16, 1900 (v.94, p.284)," passed April 22, 1904, so that when a township shall vote to improve the roads therein by general taxation the trustees thereof shall appoint three freeholders as commissioners who shall serve three years and their successors shall be appointed for like terms and in like manner until all the roads of such township are improved as aforesaid. The commissioners shall designate the roads and streets to be improved and the township trustees shall levy a tax of not exceeding six mills on the dollar of all taxable property in the township until all of such roads are improved.

Section 1 of an act entitled "An act to provide for the improvement of public roads," passed April 4, 1900, was amended ('08 p.489-90) so that on petition to the county commissioners by a majority of the landowners residing within 1 mile of any public road asking for the grading and improvement of such road, the commissioners shall if they deem same to the public interest cause

such improvement to be made, not less than half nor more than two thirds of the cost thereof to be paid by the township in which same is located and the balance to be assessed against the land-owners and the real estate benefited thereby in proportion to the benefits.

Section 4919 of the Revised Statutes is amended and supplemented by section 4919-1 ('08 p.360-62) so that whenever any principal highway or part thereof has been destroyed by freshet or any other casualty or by reason of the large amount of traffic thereon, and the county commissioners shall think the ordinary levies authorized by law for such purposes inadequate for repair of such damages, they may annually thereafter at their June session levy a tax of not exceeding five tenths of a mill on each dollar of assessed valuation of the county to be expended under their direction. The commissioners are also required to cause all necessary repairs on all improved roads in the county for their proper maintenance and may levy therefor a tax of not to exceed three tenths of one mill on all the taxable property of the county, which levy shall be in addition to all other levies authorized by law and shall be applied by said commissioners exclusively for such repairs and shall not be subject to distribution among the townships. The materials used for such work shall be procured by contract and the work may be performed by day labor or may be let to contract. The commissioners may issue bonds in anticipation of the funds to arise from the above levy.

An act ('08 p.102) was passed so amending an act entitled "An act to authorize the improvement of public roads of townships including streets of cities or villages," passed April 22, 1904, that the township trustees may issue 5% bonds of the township to run for not to exceed 30 years for the purpose of making such improvements.

County commissioners are authorized when they shall deem it for the public interest to purchase road machinery and tools and employ the necessary labor to operate same and shall pay for same with any funds on hand applicable to the construction or repair of roads in their county ('08 p.204).

The act of April 2, 1906 (98v. 292) relating to road districts was amended ('08 p.384-86) fixing the term of office of district road commissioners at four years. Such road districts may issue 25-year 6% bonds in a sum not to exceed \$250,000, unless the taxable valuation of the district exceeds \$5,000,000, in which case



\$25,000 more bonds may be issued for each million of assessed valuation of the district over \$5,000,000. A tax of one mill on the dollar may be levied in such district for the purpose of keeping roads in repair.

Sections 4637-39 of the Revised Statutes are so amended ('08 p.476) that benefit assessments on abutting property may be anticipated by the county commissioners after the first instalment has been paid, and sufficient money borrowed to pay the balance of the estimated cost of the improvements and 5% bonds may be issued therefor, but the total amount of such bonds outstanding at any one time shall not exceed 1% of the total taxable valuation of the county.

**Rhode Island.** Chapter 1157 of the Public Laws of 1904, relating to the licensing or registration of automobiles, and all acts inconsistent therewith are repealed by chapter 1592, laws of 1908, and the following new law enacted:

Sections 1-10. Every owner of one or more motor vehicles shall file in the office of the State Board of Public Roads a statement under oath of his name, residence, post office address and a brief description of each such vehicle, including the maker, maker's number, kind of power and number of horsepower, and shall pay registration fees as follows: \$5 for a motor vehicle, other than a motor cycle, or automobile truck of 20 horsepower or less; \$10 for one of over 20 and not more than 30 horsepower; \$15 for one of over 30 and not more than 40 horsepower; \$25 for registration of each such vehicle of over 40 horsepower. A fee of 50 cents is charged for motor cycles. Fifty dollars is charged for issuing to manufacturers or dealers a general registration certificate to be used on any vehicles handled by him until such vehicle is sold. A fee of 50 cents is charged for each original license to operate a motor cycle and \$1 for each original license to operate any motor vehicle other than a motor cycle. All or any such licenses may be revoked by the board for good cause. Any nonresident of this state who shall have complied with the laws of the state or territory of the United States in which he resides requiring registration of owners of motor vehicles or motor cycles, may come into this state and operate under such registration for 20 days.

Sections 11-13. The speed shall not at any time or place exceed 25 miles per hour and where the territory contiguous thereto is closely built up 15 miles an hour is the limit. The usual provisions



are enacted relative to frightening animals, sounding gongs, etc., and penalties provided.

Sections 14-18. No city or town shall have power to make any ordinance respecting the speed of motor vehicles but they may exclude them from certain roads therein and shall designate such roads by public signs, provided that such roads excluded shall not include state roads or main highways leading from town to town, and provided further that powers given cities and towns to regulate shows, processions, assemblages or parades in streets and public places and to regulate the use of public parks and all ordinances, bylaws and regulations enacted in pursuance thereof shall be and remain in full force and effect.

Section 19. All money collected for registration and license fees and fines under the provisions of this act shall be turned over to the general treasurer to be used for the repair and maintenance of state roads and highways under the direction of the State Board of Public Works.

A resolution was passed by the Legislature submitting to a vote of the people at the 1908 election the question of issuing \$600,000 of state bonds for the purpose of constructing state highways.

**South Carolina.** An act was passed conferring upon the council of any city or town of over 1000 inhabitants the power and duty to keep in good repair all the streets, ways and bridges within the limits of such city or town, and the council is empowered to require all male inhabitants between 18 and 50 years of age, except those exempt by law, to perform not exceeding four days' work upon such streets, ways or bridges each year or pay in lieu thereof not to exceed \$3 ('08 no.446).

A number of local acts were passed relating to road improvement and taxation in the counties of Beaufort, Clarendon, Colleton, Darlington, Fairfield, Lancaster, Laurens, Lee, Marlboro, Saluda, Williamsburg and York ('08 no.519, 544, 548, 545, 533, 534, 564, 535).

**Vermont.** (Session commenced October 7, 1908, adjourned January 29, 1909). Section 3578 of the Public Statutes providing for highway districts in incorporated villages is repealed ('08 no.95).

Section 3977 of the Public Statutes was so amended that the selectmen of towns shall annually, during August and September, cause to be cut or removed from within the limits of highways all trees and bushes that damage the road or that are objectionable

from a material or artistic standpoint. Shade and fruit trees that have been set or marked by the abutting landowners and young trees at proper distance from the highway and from each other shall be preserved, as well as banks and hedges that add to the beauty of the roadside. This duty on all state roads shall devolve on the State Highway Commissioner ('08 no.96 approved January 14, 1909).

Sections 4004 and 4005 of the Public Statutes are amended ('08 no.97, approved January 22, 1909) so that the State Highway Commissioner, with the advice and consent of the Governor, shall annually appoint not to exceed one supervisor for each county to assist him in the performance of his duties therein. All moneys raised and appropriated by the state under the provisions of this chapter shall be expended in permanently improving the main thoroughfares and most important roads in each town which shall be selected by the selectmen and town road commissioners, subject to approval by the State Highway Commissioner, and shall be known as state roads. Towns shall keep such selected highways or state roads together with all roads that have been improved at state expense in good repair at all seasons of the year. No town shall be entitled to receive money from the state in any year until it has complied with all the provisions of this chapter and all such money shall be laid out and expended by a commissioner appointed by the selectmen of each town with consent and approval of the State Highway Commissioner, but the selectmen and State Commissioner may agree upon any plan of expenditure deemed best in any such town, and the same provisions apply in case of incorporated villages in expending the money so apportioned to them.

Section 4009 of the Public Laws is also amended by the same act, appropriating \$75,000 for permanent road improvement in accordance with the provisions of this chapter, any unexpended balance of which in any year shall be carried forward to the next year. This appropriation shall be available to cities and towns, excluding incorporated villages, as follows: When a town shall vote to raise money in excess of the amount required by law to be raised for highways, to take advantage of the provisions of this section, and the town clerk shall notify the State Highway Commissioner of same on or before April first of each year, the State Highway Commissioner shall apportion to the town an equal amount from the sum above appropriated provided the amount so voted is not less than \$100 nor more than \$500 in any one year.



This act also amends section 4013 of the Public Statutes so that an incorporated village may, upon application to the State Highway Commissioner, have the services of an engineer or road expert for consultation in making plans for improving its streets and supervision of work under following conditions: a village voting and expending \$500 in any one year on permanent street improvements may have such services at an expense of not to exceed \$100 for the biennial term, and where \$1000 is so voted and expended they may have such services at an expense not to exceed \$300 for the biennial term, which shall be paid from the fund provided in section 4009 in both instances.

The limit of time within which an action may be brought against a town for injuries caused by insufficiency or want of repair of a bridge is fixed at two years ('08 no.98).

Sections 4076, 4077 and 4100 of the Public Statutes relating to registration of automobiles and motor vehicles were amended so that annual registration is required and application for such registration shall be to the Secretary of State. Such application shall contain the name, residence and post office address of the applicant, a brief description of the automobile or motor vehicle, including the name of its maker, the number, if any, affixed thereon by the maker, and the kind of motive power in figures of horsepower, and be accompanied by a fee of \$1 for each horsepower of such automobile or motor vehicle. The second registration fee of an automobile or motor vehicle shall be but 75% of the first fee, and the third and each successive registration fee shall be but 50% of the first fee. All fees recovered by chapter 176 of the General Statutes as amended by this act, less expenses incurred in connection therewith, shall be applied to a separate fund to be called the "maintenance fund," to be expended in the repair and maintenance of the main thoroughfares and state roads, under the direction of the State Highway Commissioner, in the several counties in proportion to the amount received therefrom as nearly as possible ('08 no.99, approved January 28, 1909).

Section 4089 of the Public Statutes relating to automobiles is so amended that a resident of another state or country who has complied with the laws of his state or country relating to the registration and licensing of automobiles or motor vehicles shall not be required to pay a registration or license fee for operating an automobile or motor vehicle in this state for not to exceed 10 days, provided such state or country grants like privileges to residents



of this state; and if such person shall operate such machine in this state more than 10 days but not exceeding 60 days he shall pay a license fee of \$3 for each automobile or motor vehicle of 20 horsepower or less, \$6 for each one exceeding 20 and less than 40 horsepower, and \$10 for each one of more than 40 horsepower. If such nonresident shall operate an automobile or motor vehicle for more than 60 days he shall be subject to the same provisions of law as to registration as residents, the amount already paid to be deducted from the fees required ('08 no.100, approved January 28, 1909).

Section 4091 of the Public Statutes is amended, fixing the speed limit of automobiles at not to exceed 25 miles an hour outside a city or incorporated village and not to exceed 10 miles within an incorporated city or village or the thickly settled portion of a town or across any bridge of more than 50 feet span, but selectmen of towns or the proper officials of a city or incorporated village may make special regulations as to the speed on narrow or dangerous roads or ways, which may be appealed to the State Highway Commission ('08 no.101, approved January 28, 1909).

**Virginia.** The state aid law was amended so as to authorize the construction of sand clay roads when deemed advisable ('08 ch.131).

Chapter 58 of the laws of 1906, amending and enacting section 4046a of the Code of Virginia, was so amended that felony convicts sentenced to imprisonment for a term of five years may be sentenced to work on the roads, as against two years heretofore ('08 ch.28).

The state aid law is so amended ('08 ch.76) that the local road authorities in making their second application for state aid after applying for an engineer to view a road proposed to be improved, shall agree that the county will bear as a county charge in the first instance 50% of the expense of such road improvement, which improvement shall be of telford, gravel, macadam, sand clay or other form of road construction best suited to the needs of the vicinity and consistent with economy. The State Highway Commissioner, after receipt of the second application, shall advertise for bids to do such work according to the plans and specifications furnished therefor, and the local road authorities shall let the contract to the lowest responsible bidder or may reject any and all bids. Such work shall be done under actual supervision of the State Highway Commissioner and partial payments may be made not to exceed 90% of

contract price, 10% being reserved until 90 days after the entire work has been completed and accepted and opened to the public.

The expense of such road improvement shall be borne 50% by the state and 50% by the county and smaller road divisions thereof that may be established according to law, as the local road authorities of the county may determine. Five per cent of the total sum appropriated by the state for carrying out the provisions of this act and raised locally in accordance herewith may be reserved by the State Highway Commissioner to enable him to employ necessary assistants, and the balance of such state money aid shall each year be apportioned among all the counties of the state in proportion to the total amount of state taxes paid into the treasury from all sources the next preceding fiscal year, and if any county shall not apply for its apportionment by the first day of March each year the same shall be apportioned in like manner as before to the other counties which had theretofore made application for a greater sum than their apportionments.

Any county wherein, after the passage of this act, more than 50% of the expense of permanent road improvement shall be expended in accordance herewith shall be entitled to receive its annual apportionment of state aid until its receipts from the state on such account shall equal 50% of such expense.

Any county whose share of the annual apportionment of state aid shall not exceed \$2500 shall be entitled to receive the same in payment of 50% of the expense of permanent bridge building in such county according to plans and specifications made or approved by the State Highway Commissioner, the county to bear the other 50% of such expense.

The local road authorities shall determine the part of the 50% of such expense for road improvement to be borne locally which the county shall bear, and what part, if any, the smaller road divisions shall bear, and the local authorities may accept private contributions to be used on account of such expenses to be borne locally.

Where a state convict road force is furnished to any county in any year such county shall not be entitled to receive money state aid under this act.

An annual appropriation of \$250,000 is made for carrying out the provisions of this act, to commence March 1, 1909 ('08 ch.76 §1-10).

Counties may issue bonds, after an election held therefor, for making road improvements in any magisterial district in such

county, such election to be held in the same manner as other elections, the amount of such bonds not to exceed 10% of the total taxable values at the time in such magisterial district, and a tax shall be levied on the property of the district to pay the interest of such bonds and create a sinking fund for their discharge at maturity. Such bonds shall not be sold for less than par, shall bear 6% interest, and shall be payable in not to exceed 34 years. No election for the issuance of such bonds shall be held oftener than once in two years for the same magisterial district ('08 ch.70).

The convict labor law was amended so that all persons sentenced to work on the public roads shall be allowed credit for good behavior on their sentences to the same extent and upon the same terms as now provided for convicts in the penitentiary, and any person sentenced to work on the public roads until cost or fine be paid shall be allowed a credit upon such fine or cost of 50 cents per day for such days as he shall labor on the roads, and not more than six months of such work shall be required in any case solely on account of failure to pay such fine or costs ('08 ch.354).

In addition, 41 local or special acts were passed, repealing certain road laws in eight counties, amending the road laws of 30 counties, and authorizing bond issues for road purposes in three counties.



*New York State Education Department*

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REVIEW OF LEGISLATION 1907-8

LEGISLATION 39zk

**MOTOR VEHICLES**

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In order to disclose the legislative tendencies with regard to motor vehicle legislation and to indicate popular sentiment in that regard, as embodied in governors messages and in legislative enactment, a brief analysis and summary of the statutes affecting the use of automobiles, enacted into law in the legislative sessions of 1907-8, held throughout the various states, whether as entirely new laws upon the subject, or as amendments of preëxisting laws, is submitted as follows:

I

The following suggestions were made by the Governors of various states to the Legislatures convening in the sessions of the various states, in 1907-8, but it is to be noted, in passing, that very few, if any, of the drastic or extreme recommendations by the Governors were adopted or enacted into law by the Legislatures.

**Delaware.** In his message to the Legislature January 1, 1907, Governor Lee made the following recommendation, to wit, that a license fee of \$5 for vehicles and a fee of \$2 for chauffeurs be imposed; that provision be made for the revocation of licenses upon proof of incompetence; that incompetent owners be required to employ licensed chauffeurs; that the surplus derived from fees, fines and the like be employed for the improvement of highways; and that, for second convictions of violation of provisions of the motor vehicle laws, there be a punishment of imprisonment as well as fine imposed.

**Massachusetts.** Governor Guild in his message to the Legislature of January 3, 1907, recommended that license fees be apportioned to horsepower, and that the same be used for the maintenance of highways; that horses and pedestrians be given a right of way over motor vehicles; that a board of expert examiners of operators

be appointed and that a practical test be required as a condition precedent to the issuing of operator's license.

**Utah.** Governor Cutler in his message of January 15, 1907, recommended, as a protection against accidents, particularly to pedestrians, a speed law modeled on the law of Germany.

**Vermont.** In October 1906, Governor Bell recommended that automobiles be excluded from narrow winding country roads, and the less frequented thoroughfares, at least temporarily, and that license fees be increased on some basis to provide funds for the maintenance of highways.

**Massachusetts.** On January 2, 1908, Governor Guild again makes recommendations with regard to motor vehicle laws, similar to those contained in his message of 1907, to wit, that the registration tax be so graded as to impose the heaviest fees on the heaviest cars; that the Highway Commissioners be empowered to compel the attendance of witnesses in cases where the issue was the revocation of a license; that all nonresidents be compelled to conform to the state motor vehicle law, and if operating machines in the state for more than one week, that they be required to pay the state license fee.

**New Jersey.** Governor Fort in his message of January 21, 1908, advocated a relaxation of the speed regulations; recommended increased license fees, and that they be imposed on the basis of horsepower; that the surplus, over expenses, derived from fees, go to the State Road Department; that increased penalties be imposed for violations of the motor vehicle law; that the efficiency of the State Motor Vehicle Department to secure the enforcement of the laws be increased.

**Rhode Island.** Governor Higgins on January 10, 1908, recommended stringent speed regulations, especially in the busy sections, and that the penalty of imprisonment be imposed for a violation.

## II

The states which have enacted entirely new motor vehicle laws or which have so extensively amended their existing statutes as to have enacted new laws, in effect, are Connecticut, Delaware, Illinois, Missouri, Ohio, Rhode Island, Texas and Vermont.

The important features of the new laws just referred to are as follows:

**Connecticut.** Chapter 221 of the laws of 1907 repealed chapters 230, 258 and 282 of the laws of 1905, but reenacted much of the old law, and provided, in addition, for a fuller registration; that registration certificate be carried in the vehicle at all times; that manufacturers and dealers secure a license for each class of machine; that operators' licenses should be carried at all times; that they should not be issued to persons under 18 years of age, and that they should remain in force one year; that the fees should be increased as follows: for vehicles under 20 horsepower \$3, for vehicles between 20 and 30 horsepower \$5, for vehicles over 30 horsepower \$10; that the fee for a dealer's certificate should be \$10, for an operator's license \$2, and that the motor bicycle registration fee should be 50 cents; that an operator's license should be revocable on proper cause shown and upon a hearing after three days' written notice; that abstracts of convictions of violation of the law should be forwarded to the Secretary of State; that speed regulations should be relaxed, and that the only speed limitation should be reasonableness under all the circumstances, but that the maintenance of a speed of 25 miles an hour for one eighth of a mile or over should be deemed *prima facie* evidence of a violation; that signals at dangerous places should be required; and that the vehicle might be given as bail.

**Delaware.** Chapter 144 of laws of 1907 so far amended chapter 124 of the laws of 1905 as to substantially substitute a new act which provided, in chief, that nonresidents should be exempt from registration for 10 days; that the registration fee be \$3 (instead of \$2 as under the old law); that numbers should be illuminated so as to be distinguishable when in use from one hour after sunset to one hour before sunrise; that operators be licensed, the license only to be issued to persons over 16 years of age and to be good until December 31st of each year, fee \$2; that motor vehicles, operated by manufacturers or dealers for the purpose of demonstrating or selling, should be exempt from the necessity of individual registration provided such manufacturers or dealers, registered in the "dealers' class," pay a fee of \$3 for each car to be registered; the use of chains on tires is permitted wherever the use of the highways without them would be dangerous; that the law of the road should be specifically applied to motor vehicles; that a higher rate of speed in built-up localities be permitted, to wit, 12 miles an hour, where under



the former law it was 10 miles an hour; that the general speed limit should be 20 miles an hour; that the registration certificate should be exhibited on request by the police; and that a license might be revoked as a penalty for violation, in addition to the other penalties provided.

**Illinois.** The law of 1907 (p.510) repealed the law of 1903 (p.302). The old law was concerned only with speed regulation. The new law is a complete motor vehicle code. It provides for registration upon the payment of a fee of \$2; that nonresidents properly registered in their own state be exempt from the registration provisions of the act; speed limitations of 6 miles per hour in dangerous places, 15 miles in towns and elsewhere 20 miles per hour; prohibits racing on highways; prohibits local regulations of all kinds except in parks, where speed regulations are permitted; requires registration of operators upon the payment of a fee of \$1; prescribes chauffeur's badge; penalties for violations include revocation of license.

**Missouri.** The law of 1907 (p.73) repeals the law of 1903 (p.162). The new statute is a comprehensive motor vehicle law. It provides for registration, a certificate to be issued thereon, and numbers to be secured thereby upon payment of a fee of \$5; that the certificate should be returned upon the sale of the vehicle; that the number should be displayed on the front and rear, and should be illuminated on front lamps, from sunset to sunrise; that manufacturers and dealers should have a license for each class of vehicles only, and that each class should be defined; that nonresidents properly registered in their own state should be exempt from Missouri registration for 20 days; that operators should be required to secure licenses and such licenses should not be issued to persons under 18 years of age, and that the fee for the same should be \$2; that operators should be required to wear a badge; that nonresident operators should have the same exemptions as in the case of registration by owners; that motor vehicles should be properly equipped with brakes etc.; that the name and address of the operator should be furnished in case of accident; that operators should stop the vehicle on signal to allow draught-animals to pass; that the speed maintained should be at all times reasonable, the circumstances considered, and that it should be limited to 6, 8, 10 and 15 miles, according to locality and the danger of the situation; that local authorities should be permitted to impose local license taxes,

and that penalties for violations should include imprisonment for a second offense and forfeiture of privileges.

**Ohio.** The law of 1908 (p.538) amends section 3490 of the Revised Statutes and repeals the law of 1906 (p.320). The new law provides for annual registration and the payment of a fee of \$5 for gasoline or steam vehicles and \$3 for electric cars. (Under the old law the fee was \$5 for less than 30 horsepower, and \$3 for every 10 horsepower in addition thereto). The new law provides that a list of registered owners who are punished for violations should be furnished to each county clerk immediately; that the vehicle should carry a red lamp so as to show a red light and also so as to illuminate the number; that the speed limitations should be 8, 15 and 20 miles per hour; that manufacturers should pay a license fee of \$10 for each style of vehicle dealt in by them; that chauffeurs be licensed, and that they pay a fee of \$2, and that they should conspicuously display their badges; that chauffeurs must have a written consent in order to use the vehicles during owners' absence; that local speed regulations be prohibited, and that highways might be set apart for tests. The law also provided penalties considerably reduced in amount from those which might be imposed under the old law. The new law also provided that the magistrates must promptly notify the Secretary of State of convictions.

**Rhode Island.** The law of 1908 (ch.1592) repealed chapter 1157 of the laws of 1904. The new law provided that a number plate should be carried both on the front and rear of the vehicle, and fastened so as not to swing; that operators should be licensed annually, and that such a license should not be issued to persons under 16 years; that applicants must show a knowledge of the vehicle, and also a knowledge of the law; registration fees were somewhat increased, and under the new law were imposed as follows: \$5 for machines of 20 horsepower or less, \$10 for machines of between 20 and 30 horsepower, \$15 for machines of between 30 and 40 horsepower, \$25 for machines of more than 40 horsepower, \$50 for dealer's license, and \$1 for operator's license. The bill further provided that the operator's license might be suspended by the State Board of Public Roads, with an appeal to the Superior Court; that nonresidents should be exempt from Rhode Island registration and from the requirements of operator's license for 20 days or until they should violate the motor vehicle law; that no more than a reasonable rate



of speed should be maintained, and the speed should be limited to 15 and 25 miles per hour; that certain precautions should be taken in dangerous places, and upon meeting animals; that the motor vehicles should not be operated by an intoxicated person, and that local speed regulations should be prohibited except traffic rules; that no more than two number plates should be displayed on front and rear of any machine; that the rear lamp must be so placed as to illuminate the rear number; that chains might be used upon the tires whenever they should be reasonably necessary for safety in case of slippery roads; that imprisonment might be imposed as a penalty for second offenses, and that the magistrate or court should be allowed to impose penalty of imprisonment for a third offense, committed within any year; that the surplus of the fees derived from the enforcement of the act should be used for good road repair, and that the motor vehicle should be received as bail when offered by the owner.

**Texas.** Chapter 96 of the laws of 1907 constituted a new motor vehicle law of this state. It provided that motor vehicles should be registered with the county clerk upon the payment of a fee of 50 cents; that the motor vehicle should display this number; that the speed limitation should be 8 and 18 miles an hour unless local authorities should allow more than 8 miles an hour in built-up portions; that race courses and speedways should be excepted from the speed limitations; that racing on public highways should be prohibited; that motor vehicles should come to a standstill on signal from the rider or driver of a domestic animal; that the machine should be equipped with appliances for warning of its approach, capable of being heard 300 feet; that lights should be carried from one hour after sunset to one hour before sunrise, and that penalties for violations should be fines ranging from \$15 to \$100.

**Vermont.** The motor vehicle law enacted in 1906 (no. 113) very radically amends the old motor vehicle law which was the law of 1904 (no. 86) and likewise supplements it. (The act took effect at the beginning of 1907). This statute considerably relaxed the speed limitations, allowing 10 miles an hour in towns, and elsewhere requiring only that the speed should be a reasonable one under all the circumstances, adding thereto the provision that the maintenance of a speed of 25 miles an hour should be *prima facie* evidence of the violation; this in lieu of arbitrary and low speed limitations under



the old law; the act provides for a registration of \$3 upon cars of 25 horsepower, or less, and \$5 for others; that operators be required to procure a license on the payment of fee of \$2, and that manufacturers pay a registration fee of \$25; that nonresidents should be exempt from registration or from the necessity of procuring operators' licenses, if they are properly licensed in their home states, and if reciprocal exemption be extended by such states to residents of Vermont; that the rear number plate be illuminated from outside from sunset to sunrise; that no intoxicated persons should operate a motor vehicle; and that the surplus of registration fees should be employed as a part of the state highway fund.

### III

The legislative tendencies indicated by a comparison of these new laws, in the period mentioned, with the preëxisting laws, are as follows:

A very distinct liberalizing of speed provisions and a strong inclination, as demonstrated by the provisions of various of the state laws mentioned above, to wipe out arbitrary miles per hour provisions and to substitute therefor the simple requirement that the motor vehicle shall be operated at a reasonable and proper rate of speed under all the circumstances in the situation; a tendency to exact larger revenue from the automobile-owning public to create an additional fund for the maintenance and repair of highways and to this end that the registration fees be imposed annually; an effort to afford greater protection to the users of the highways as shown by the painstaking provisions respecting professional chauffeurs' and other operators' licenses, and provisions for the revocation of licenses in certain cases; recognition of the fact that it is only the reckless who are to be legislated against and not the whole class of automobile users, as shown by relaxation of speed limitations and provisions to prevent unskilful, youthful or intoxicated persons from operating these machines; and the well defined purpose to adequately enforce the laws by prescribing just penalties for violations, including imprisonment for a second and third offense; and lastly, but of the greatest importance, a tendency toward greater uniformity indicated in many of the provisions of these motor vehicle statutes, including provisions for reciprocal exemption of nonresidents.

## IV

The following states have enacted amendatory or supplementary statutes of more or less scope: California, Connecticut, Indiana, Iowa, Kansas, Massachusetts, Michigan, Nebraska, New Jersey, New York, North Carolina, Utah, Vermont and Wisconsin.

The scope of these amendments is as follows:

**California.** The law of 1907 (ch.500) amended the law of 1905 (ch.612) but the amendments consisted mainly in changes of wording.

**Connecticut.** The laws of 1907 (ch.32) amended General Statutes 1902 section 1232. By this act the preëxisting prohibition, under certain penalties, against the use of a horse, boat and the like, without the permission of the owner, was amended so as to include motor vehicles. The penalty fixed is \$50 fine or three months' imprisonment or both.

**Indiana.** The law of 1907 (ch.258) amended the law of 1905 (ch.123) and by such amendment it was required that the motor vehicle should be under control at dangerous places, and should go at no more than a reasonable rate of speed there; that all machines should carry lights after dark; that the speed should not exceed 6 miles per hour, in passing animals, and that assistance should be rendered if requested, and that penalties should be for a first offense not more than \$50, for a second offense \$100, and for a third \$200.

**Iowa.** The law of 1907 (ch.68) amended the law of 1904 (ch.53). The fee for registration was increased from \$1 to \$5 and annual registration required. Special registration by dealers on payment of a fee of \$10 was provided. The law of 1907 (ch.98) gave a definition of an automobile railway.

**Kansas.** The law of 1908 (ex. sess. ch.12) amended the law of 1903 (ch.67) which latter was a joke statute, concerning political chauffeurs, automobilious bandwagons, etc. The amendment eliminates the facetious part of the statute.

**Massachusetts.** There were several amendatory statutes passed in this state. Chapter 203 of the laws of 1907 provided that penalties for violations of general law apply in case of violations of statutes excluding automobiles from highways.

Chapter 408 of the laws of 1907 provided that records of violations be sent by local authorities to the Highway Commission.

Chapter 494 of the laws of 1907 provided that unlicensed opera-



tors violating the law might be arrested without warrant and held 24 hours, exclusive of Sunday, for examination.

Chapter 580 of the laws of 1907 increased the registration fees from \$2 to \$5 for owners and from \$10 to \$15 for dealers, and provided that the surplus of fees be used for highway repair.

Chapter 263 of the laws of 1908 provided that local permits for hill climbing tests might be issued:

Chapter 647 of the laws of 1908 provided that the aldermen of Lowell and Tynsborough might permit speed tests on July 4th or Labor day or the first pleasant day thereafter and might close highways for the purpose.

Chapter 648 of the laws of 1908 empowered the Highway Commissioners to compel the attendance of witnesses and pay them fees, upon the investigation of accidents; that they might revoke licenses within certain defined limits with regard thereto; that non-residents violating the Massachusetts motor vehicle law might be compelled to comply fully with the registration provisions at once; that operators' licenses might be suspended in the discretion of the Highway Commission without a hearing; and that penalties for failure to display number or disclose the name after an accident should include imprisonment.

**Michigan.** The amendment constituting act 44 of the laws of 1907 provided that the use of a motor vehicle without the authority of the owner should be deemed a misdemeanor, punishable by a fine of not over \$100 or imprisonment for not over 90 days or both.

Act 304 of laws of 1907 amending act 196 of the laws of 1905 provided that registration should be made annually and that the application for a renewal should be made 30 days before the expiration of the old registration; that the fee for registration be reduced from \$2 to \$1, and that the fee for renewal should be 50 cents; that the manufacturer's license should be \$5 for each type of machine with \$2 fee for renewal; that applications for operators' licenses should be attested by two responsible persons to the effect that the applicant had ability to run the machine; and that operators should wear their badges conspicuously.

**Nebraska.** Chapter 115 of the laws of 1907 repealed part of chapter 78 of the laws of 1905 and provided that the filing fee should be \$1 payable annually, and that each renewal payment should be made before the expiration of the previous registration.



**New Jersey.** Chapter 115 of the laws of 1908 provided that scattering any sharp-edged substances on the roads should be a misdemeanor.

Chapter 304 of the laws of 1908 amended chapter 113 of the laws of 1906, and provided that lamps should be carried from a half hour after sunset to a half hour before sunrise (instead of an hour as formerly); a force of inspectors should be organized for enforcing the motor vehicle law; motor vehicles for hire from adjoining states should be subject to certain special provisions; that the fee for a manufacturer's certificate for five vehicles should be \$15 (where it was formerly \$20); that operators' licenses should be classified according to the horsepower of the machine, and that they should pay \$2 where the machine was under 30 horsepower and \$4 where it was 30 horsepower or over; that the surplus of registration fees be used for repair of improved roads; and that the Highway Commission should use \$1000 annually for warning signs at dangerous places, where it was formerly authorized to use \$3000.

**New York.** Chapter 127 of the laws of 1907 prescribed the amount of toll which might be charged for the passage of motor vehicles over turnpikes, bridges etc.

**North Carolina.** Chapter 126 of the laws of 1907 provided that the temporary appropriation to his own use by one not the owner of the motor vehicle should constitute larceny and be punishable by imprisonment of from four months to ten years.

**Utah.** Chapter 6 of the laws of 1907 amended the Revised Statutes and extended the preëxisting prohibition against reckless driving to motor vehicles.

**Vermont.** The law of 1908 (no.99) amending section 4076 et seq. Revised Laws 1906, provided that there should be an annual registration fee of \$1 per horsepower, instead of the maximum of \$5 as formerly; that the first renewal should be 75% of the original fee, and that the second renewal should be 50% of the original fee; that machines previously registered in Vermont or other states should be considered to have paid their original registration fee; that the surplus of registration fees be used for the repair of main thoroughfares (formerly all roads); that the number plate should bear the year of registration; that the number might be painted on radiator instead of on a separate plate on the front of the machine, with permission of the Secretary of State.

**Wisconsin.** Chapter 436 of the laws of 1907 provided for an assessment upon motor vehicles; chapter 516 of the laws of 1907

amending chapter 305 of the laws of 1905 provided that power should be shut off upon request, upon meeting a person riding or driving a horse, until the horse should be under control; and that the penalty for a second violation should be a fine of from \$25 to \$100 or imprisonment for not more than 60 days or both.

## V

The same tendencies are indicated in these last mentioned amendatory statutes as in the substantially new motor vehicle laws referred to under point "III"; with the additional indication of a tendency to put an abrupt stop to so called "joy riding."





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